



LEGISLATIVE COMMITTEE MEETING

AGENDA

**Department of Consumer Affairs
1625 North Market Blvd.
Hearing Room S-102
Sacramento, CA 95834**

August 10, 2011

Wednesday, August 10, 2011 – 2:00 pm – 3:00 pm

11.0 Review and Approve Minutes:

- March 10, 2011
- May 18, 2011

11.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

Assembly Bills	Senate Bills
AB 1424	SB 161
	SB 538
	SB 541
	SB 747

11.2 Information Only: Federal Legislation of Interest to the Board

11.3 Public Comment for Items Not on the Agenda

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov or send a written request to the Board of Registered Nursing Office at 1625 North Market #N-217, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (916) 322-1700). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation.

Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE MEETING MINUTES**

DATE: March 10, 2011

TIME: 2:30 p.m. – 3:30 p.m.

LOCATION: DCA Headquarters
1625 N. Market Boulevard
Hearing Room, S-102
Sacramento, California 95834

DRAFT

MEMBERS PRESENT: Richard Rice, Chair
Dian Harrison
Douglas Hoffner
Erin Niemela

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The meeting was called to order at 2:30 p.m. by the chairperson.

7.0 Review and Approve Minutes:

➤ January 5, 2011

The minutes of January 5, 2011, were approved.

7.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

AB 661 Block: Public postsecondary education: San Diego Community College District: baccalaureate degree pilot program
Committee Position: Watch

SB 161 Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication
Committee Position: Oppose

SB 747 Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients
Committee Position: Watch

7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda

The meeting was adjourned at 3:00 p.m.

Submitted by: _____
Kay Weinkam, M.S., RN, CNS

Approved by: _____
Richard L. Rice, Chair



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DRAFT

DATE: May 18, 2011

TIME: 3:30 p.m.- 4:30 p.m..

LOCATION: Doubletree Hotel
222 North Vineyard Avenue
Ontario, California 91764

MEMBERS PRESENT: Erin Niemela
Kathrine Ware

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The meeting was called to order at 3:30 p.m. by Erin Niemela

7.0 Review and Approve Minutes:
➤ March 10, 2011

The minutes were tabled until the next committee meeting for approval.

7.1 Adopt/Modify Positions on Bills of Interest to the Board

AB 661	Block: Public postsecondary education: San Diego Community College District: baccalaureate degree pilot program Committee Position: Watch
AB 888	Pan: Pupil health: School Medication Authorization task force Committee Position: ---
SB 161	Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication Committee Position: Oppose
SB 538	Price: Nursing Committee Position: ---
SB 541	Price: Regulatory boards: expert consultants

Committee Position: ---

SB 544 Price: Professions and Vocations: regulatory boards
Committee Position: ---

SB 747 Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients
Committee Position: Watch

The Committee Positions reflect previous action taken by the Committee. The members functioned as a subcommittee today and did not take action on any of these bills.

7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda
No comments were offered.

The meeting was adjourned at

Submitted by: _____
Louise Bailey, Executive Officer

Approved by: _____
Erin Niemela

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 11.1
DATE: August 10, 2011

ACTION REQUESTED: Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

REQUESTED BY: Kay Weinkam
Nursing Education Consultant, Staff Liaison

BACKGROUND:	<u>Assembly Bills</u>	<u>Senate Bills</u>
	AB 1424	SB 161
		SB 538
		SB 541
		SB 747

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATION, IF ANY: None

PERSON TO CONTACT: Kay Weinkam, NEC and Legislative Liaison
(916) 574-7680

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2011
August 10, 2011

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 30	Hayashi	Health facilities: security plans	--	Support	Assembly Appropriation
AB 40	Yamada	Elder abuse: reporting	--	Watch	Senate Human Services
AB 661	Block	Public postsecondary education: community college districts: baccalaureate degree pilot program	Watch	Watch	Inactive
AB 675	Hagman	Continuing education	--	Oppose	Assembly BP&CP
AB 888	Pan	Pupil health: School Medication Authorization Task Force	--	--	Assembly Education
AB 958	Berryhill	Regulatory boards: limitations periods	--	--	Assembly BP&CP
AB 1424	Perea	Franchise Tax Board: delinquent tax debt	--	--	Senate Appropriation

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2011
August 10, 2011**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 65	Strickland	Pupil health: prescription pancreatic enzymes	--	Watch	Senate Health
SB 100	Price	Healing Arts	--	Watch	Assembly Appropriation
SB 161	Huff	Schools: Emergency Medical Assistance: administration of epilepsy medication	Oppose	Oppose	Assembly Appropriation
SB 393	Hernandez	Medical homes	--	--	Assembly Health
SB 538	Price	Nursing	--	Support	Assembly Appropriation
SB 541	Price	Regulatory boards: expert consultants	--	--	Assembly Appropriation
SB 544	Price	Professions & Vocations: regulatory boards	--	--	Senate BP&ED
SB 747	Kehoe	Continuing education: lesbian, gay, bisexual, and transgender patients	Watch	Oppose	Assembly Appropriation
SB 943	Price	Healing Arts	--	Support	Assembly Appropriation

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 10, 2011
BILL ANALYSIS**

AUTHOR:	Perea	BILL NUMBER:	AB 1424
SPONSOR:	Perea	BILL STATUS:	Senate Appropriation
SUBJECT:	Franchise Tax Board: delinquent tax debt	DATE LAST AMENDED:	7/12/11

SUMMARY:

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

ANALYSIS:

This bill, among other provisions, would:

- Requires the State Board of Equalization and the Franchise Tax Board to each make available a list of the **500** largest tax delinquencies at least **twice** each calendar year.
- Require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax, and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation.
- Requires a person whose delinquency appeared on either list and whose name has been removed to comply with the terms of the arranged resolution, authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice.

- **Permits** a state governmental licensing entity that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies.
- Requires those licensing entities to provide to the State Board of Equalization and the Franchise Tax Board the name and social security number or federal taxpayer identification number of each individual licensee of that entity, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board, and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.
- Requires the State Board of Equalization and the Franchise Tax Board, if an individual licensee appears on either list of the 500 largest tax delinquencies, and the licensing entity has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee.
- Provides for the license of a licensee who fails to satisfy the unpaid taxes by a certain date to be automatically suspended, and would require the State Board of Equalization or the Franchise Tax Board to mail a notice of suspension to the applicable state governmental licensing entity and to the licensee. The suspension would be canceled upon compliance with the tax obligation.
- Prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

California Tax Reform Association
Western Center on Law and Poverty

OPPOSE:

California Association of Realtors
California Chapter of the American Fence Association
California Fence Contractors Association
Engineering Contractors Association
California Landscape Contractors Association
Marin Builders Association
Flasher Barricade Association

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 7, 2011

AMENDED IN SENATE JUNE 6, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1424

Introduced by Assembly Member Perea

March 22, 2011

An act to amend Sections 31, 476, and 7145.5 of, and to add Section 494.5 to, the Business and Professions Code, to add Section ~~12419~~ *12419.13* to the Government Code, to add Section 10295.4 to the Public Contract Code, and to amend ~~Section Sections~~ *Sections 7063 and* 19195 of, to add Sections 6834, 6835, 7057, 19265, 19377.5, and 19571 to, *to add Article 9 (commencing with Section 6850) to Chapter 6 of Part 1 of Division 2 of*, and to add Article 7 (commencing with Section 19291) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, as amended, Perea. Franchise Tax Board: delinquent tax debt.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency. Existing law requires every board, as defined, and

the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require the *State Board of Equalization and the Franchise Tax Board* to *each* make available a list of the ~~250~~ 500 largest tax delinquencies described above at least twice each calendar year. This bill would require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and licence number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would require a person whose delinquency appeared on ~~the~~ *either* list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize *the State Board of Equalization and the Franchise Tax Board*, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill would permit a state governmental licensing entity, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license if the licensee's name is included on ~~the~~ *either* list of the ~~250~~ 500 largest tax delinquencies described above. This bill would also require those licensing entities to provide to *the State Board of Equalization and the Franchise Tax Board* the name and social security number or federal taxpayer identification number of each individual licensee of that entity, and would require each application for a new license or renewal of a license to indicate on the application that the law allows *the State Board of Equalization and the Franchise Tax Board* to share taxpayer information with a board and requires the licensee to pay his or her state ~~income~~ tax obligation and that his or her license may be suspended if the state ~~income~~ tax obligation is not paid. The bill would require *the State Board of Equalization and the Franchise Tax Board*, if an individual licensee appears on ~~the~~ *either* list of the ~~250~~ 500 largest tax delinquencies described above, and the specified licensing entity has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee. The bill would provide that the license of a licensee who fails to satisfy the unpaid taxes by a certain date shall be automatically suspended, except as specified, and

would require *the State Board of Equalization or* the Franchise Tax Board to mail a notice of suspension to the applicable state governmental licensing entity and to the licensee, and would provide that the suspension be canceled upon compliance with the tax obligation. The bill would require *the State Board of Equalization and* the Franchise Tax Board to meet certain requirements and would make related changes.

The bill would provide that the release or other use of information received by a state governmental licensing entity pursuant to these provisions, except as authorized, is punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would also prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on ~~the~~ *either* list of the ~~250~~ 500 largest tax delinquencies described above.

Existing law authorizes the Franchise Tax Board to collect specified amounts for the Department of Industrial Relations and specified amounts imposed by a court pursuant to specified procedures.

This bill would authorize *the State Board of Equalization and* the Franchise Tax Board to enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax or tax measured by income pursuant to specified procedures, provided that the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due to *the State Board of Equalization or* the Franchise Tax Board, and the agreements do not cause the net displacement of civil service employees, as specified. This bill would require the Controller, upon execution of a reciprocal agreement between *the State Board of Equalization*, the Franchise Tax Board, and any other state imposing *a sales and use tax, a tax similar to a sales and use tax*, an income tax, or tax measured by income, to offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Personal Income Tax Law or the Corporation Tax Law owed to that person or entity, as provided.

This bill would incorporate additional changes to Section 7145.5 of the Business and Professions Code, proposed by AB 1307, to be operative as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31 of the Business and Professions Code
2 is amended to read:

3 31. (a) As used in this section, “board” means any entity listed
4 in Section 101, the entities referred to in Sections 1000 and 3600,
5 the State Bar, the Department of Real Estate, and any other state
6 agency that issues a license, certificate, or registration authorizing
7 a person to engage in a business or profession.

8 (b) Each applicant for the issuance or renewal of a license,
9 certificate, registration, or other means to engage in a business or
10 profession regulated by a board who is not in compliance with a
11 judgment or order for support shall be subject to Section 17520 of
12 the Family Code.

13 (c) “Compliance with a judgment or order for support” has the
14 meaning given in paragraph (4) of subdivision (a) of Section 17520
15 of the Family Code.

16 (d) Each licensee whose name appears on a list of the ~~250~~ 500
17 largest tax delinquencies pursuant to Section ~~7063~~ or 19195 of the
18 Revenue and Taxation Code shall be subject to Section 494.5 or
19 7145.5 or to Section ~~6834~~ or 19265 of the Revenue and Taxation
20 Code.

21 (e) Each application for a new license or renewal of a license
22 shall indicate on the application that the law allows *the State Board*
23 *of Equalization and* the Franchise Tax Board to share taxpayer
24 information with a board and requires the licensee to pay his or
25 her state ~~income~~ tax obligation and that his or her license may be
26 suspended if the state ~~income~~ tax obligation is not paid.

27 (f) *For purposes of this section, “tax obligation” means the tax*
28 *imposed under, or in accordance with, Part 1 (commencing with*
29 *Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6*
30 *(commencing with Section 7251), Part 1.7 (commencing with*

1 *Section 7285), Part 10 (commencing with Section 17001), and*
2 *Part 11 (commencing with Section 23001) of Division 2 of the*
3 *Revenue and Taxation Code.*

4 SEC. 2. Section 476 of the Business and Professions Code is
5 amended to read:

6 476. (a) Except as provided in subdivision (b), nothing in this
7 division shall apply to the licensure or registration of persons
8 pursuant to Chapter 4 (commencing with Section 6000) of Division
9 3, or pursuant to Division 9 (commencing with Section 23000) or
10 pursuant to Chapter 5 (commencing with Section 19800) of
11 Division 8.

12 (b) Section 494.5 shall apply to the licensure of persons
13 authorized to practice law pursuant to Chapter 4 (commencing
14 with Section 6000) of Division 3, and the licensure or registration
15 of persons pursuant to Chapter 5 (commencing with Section 19800)
16 of Division 8 or pursuant to Division 9 (commencing with Section
17 23000).

18 SEC. 3. Section 494.5 is added to the Business and Professions
19 Code, to read:

20 494.5. (a) A state governmental licensing entity may refuse
21 to issue, reactivate, reinstate, or renew a license or may suspend
22 a license if a licensee's name is included on a certified list.

23 (1) Until the liabilities covered by this section are satisfied, the
24 qualifying person and any other personnel of record named on a
25 license who have been suspended under this section shall be
26 prohibited from serving in any capacity that is subject to licensure,
27 but shall be permitted to act in the capacity of a nonsupervising
28 bona fide employee.

29 (2) The license of any other renewable licensed entity with any
30 of the same personnel of record who have been assessed an
31 outstanding liability covered by this section shall be suspended
32 until the liability has been satisfied or until the same personnel of
33 record disassociate themselves from the renewable licensed entity.

34 (b) For purposes of this section:

35 (1) "Certified list" means ~~a~~ *either* list provided by the *State*
36 *Board of Equalization or the* Franchise Tax Board of persons
37 whose names appear on ~~a list~~ *the lists* of the ~~250~~ 500 largest tax
38 delinquencies pursuant to Section 7063 *or* 19195 of the Revenue
39 and Taxation Code.

(2) “License” includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. “License” includes a driver’s license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) “Licensee” means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) (A) “State governmental licensing entity” means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol.

(B) “State governmental licensing entity” shall not include any entity described in subparagraph (A) that has elected to decline to exercise the authority provided by this section to suspend or refuse to issue, reinstate, reactivate, or renew the license of a licensee for failure to pay the taxes described in subdivision (a). An election under this subparagraph shall not be valid unless notification of that election has been provided to *the State Board of Equalization and the Franchise Tax Board* at the time and in the manner prescribed by *the State Board of Equalization and the Franchise Tax Board*.

(c) The *State Board of Equalization and the Franchise Tax Board* shall ~~submit a~~ *each submit its respective* certified list to state governmental licensing entities.

(d) Notwithstanding any other law, all state governmental licensing entities shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified ~~list~~ *lists* provided by *the State Board of Equalization and the Franchise Tax Board* to applicants and licensees.

(e) (1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list

provided by *the State Board of Equalization and the Franchise Tax Board*. The state governmental licensing entity shall have the authority to withhold issuance or renewal of the license of any applicant ~~on the either~~ list or to suspend the license of any licensee ~~on the either~~ list.

(2) If an applicant or licensee is ~~on a certified list~~ *either of the certified lists*, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or licensee of the entity's intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant's or licensee's last known mailing address on file with the state governmental licensing entity within 30 days of receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the state governmental licensing entity.

(f) A state governmental licensing entity shall make a final determination to refuse to issue or to suspend a license pursuant to this section no sooner than 30 days and no later than 90 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the revocation or suspension of a license pursuant to this section.

1 (g) Notices shall be developed by each state governmental
2 licensing entity. ~~The~~ *For an applicant or licensee on the State*
3 *Board of Equalization's certified list, the notice shall include the*
4 *address and telephone number of the State Board of Equalization,*
5 *and shall emphasize the necessity of obtaining a release from the*
6 *State Board of Equalization as a condition for the issuance,*
7 *renewal, or continued valid status of a license or licenses. For an*
8 *applicant or licensee on the Franchise Tax Board's certified list,*
9 the notice shall include the address and telephone number of the
10 Franchise Tax Board, and shall emphasize the necessity of
11 obtaining a release from the Franchise Tax Board as a condition
12 for the issuance, renewal, or continued valid status of a license or
13 licenses.

14 (1) The notice shall inform the applicant that the state
15 governmental licensing entity shall issue a temporary license, as
16 provided in subparagraph (A) of paragraph (2) of subdivision (e),
17 for 90 calendar days if the applicant is otherwise eligible and that
18 upon expiration of that time period, the license will be denied
19 unless the state governmental licensing entity has received a release
20 from *the State Board of Equalization and* the Franchise Tax Board.

21 (2) The notice shall inform the licensee that any license
22 suspended under this section will remain suspended unless the
23 state governmental licensing entity receives a release along with
24 applications and fees, if applicable, to reinstate the license.

25 (3) The notice shall also inform the applicant or licensee that if
26 an application is denied or a license is suspended pursuant to this
27 section, any moneys paid by the applicant or licensee shall not be
28 refunded by the state governmental licensing entity. The state
29 governmental licensing entity shall also develop a form that the
30 applicant or licensee shall use to request a release by *the State*
31 *Board of Equalization and* the Franchise Tax Board. A copy of
32 this form shall be included with every notice sent pursuant to this
33 subdivision.

34 (h) If the applicant or licensee wishes to challenge the
35 submission of his or her name on a certified list, the applicant or
36 licensee shall make a timely written request for release to *the State*
37 *Board of Equalization or* the Franchise Tax ~~Board~~ Board,
38 *whichever is applicable.* The *State Board of Equalization or the*
39 Franchise Tax Board shall immediately send a release to the

1 appropriate state governmental licensing entity and the applicant
2 or licensee, if any of the following conditions are met:

3 (1) The applicant or licensee has complied with the tax
4 obligation, either by payment of the unpaid taxes or entry into an
5 installment payment agreement, as described in Section 6832 or
6 19008 of the Revenue and Taxation Code, to satisfy the unpaid
7 taxes.

8 (2) The applicant or licensee has submitted a request for release
9 not later than 45 days after the applicant's or licensee's receipt of
10 a preliminary notice described in paragraph (2) of subdivision (e),
11 but *the State Board of Equalization or the Franchise Tax Board,*
12 *whichever is applicable,* will be unable to complete the release
13 review and send notice of its findings to the applicant or licensee
14 and state governmental licensing entity within 45 days after *the*
15 *State Board of Equalization's or the Franchise Tax Board's* receipt
16 of the applicant's or licensee's request for release. Whenever a
17 release is granted under this paragraph, and, notwithstanding that
18 release, the applicable license or licenses have been suspended
19 erroneously, the state governmental licensing entity shall reinstate
20 the applicable licenses with retroactive effect back to the date of
21 the erroneous suspension and that suspension shall not be reflected
22 on any license record.

23 (3) The applicant or licensee *that is on the certified list provided*
24 *by the Franchise Tax Board* is unable to pay the outstanding
25 liability due to a current financial hardship, as determined by the
26 Franchise Tax Board.

27 (i) An applicant or licensee is required to act with diligence in
28 responding to notices from the state governmental licensing entity
29 and *the State Board of Equalization or the Franchise Tax Board*
30 with the recognition that the temporary license will lapse or the
31 license suspension will go into effect after 90 days and that *the*
32 *State Board of Equalization or the Franchise Tax Board* must have
33 time to act within that period. An applicant's or licensee's delay
34 in acting, without good cause, which directly results in the inability
35 of *the State Board of Equalization or the Franchise Tax Board,*
36 *whichever is applicable,* to complete a review of the applicant's
37 or licensee's request for release shall not constitute the diligence
38 required under this section which would justify the issuance of a
39 release. An applicant or licensee shall have the burden of
40 establishing that he or she diligently responded to notices from the

1 state governmental licensing entity or *the State Board of*
2 *Equalization* or the Franchise Tax Board and that any delay was
3 not without good cause.

4 (j) The *State Board of Equalization* or the Franchise Tax Board
5 shall create release forms for use pursuant to this section. When
6 the applicant or licensee has complied with the tax obligation,
7 either by payment of the unpaid taxes or entry into an installment
8 payment agreement, *the State Board of Equalization* or the
9 Franchise Tax Board, *whichever is applicable*, shall mail a release
10 form to the applicant or licensee and provide a release to the
11 appropriate state governmental licensing entity. Any state
12 governmental licensing entity that has received a release from *the*
13 *State Board of Equalization* and the Franchise Tax Board pursuant
14 to this subdivision shall process the release within five business
15 days of its receipt. If *the State Board of Equalization* or the
16 Franchise Tax Board determines subsequent to the issuance of a
17 release that the licensee has not complied with their installment
18 payment agreement, *the State Board of Equalization* or the
19 Franchise Tax Board, *whichever is applicable*, may notify the state
20 governmental licensing entity and the licensee in a format
21 prescribed by *the State Board of Equalization* and the Franchise
22 Tax Board that the licensee is not in compliance and the release
23 shall be rescinded. The *State Board of Equalization* and the
24 Franchise Tax Board may, when it is economically feasible for
25 the state governmental licensing entity to develop an automated
26 process for complying with this subdivision, notify the state
27 governmental licensing entity in a manner prescribed by *the State*
28 *Board of Equalization* and the Franchise Tax Board, that the
29 licensee has not complied with the installment payment agreement.
30 Upon receipt of this notice, the state governmental licensing entity
31 shall immediately notify the licensee on a form prescribed by the
32 state governmental licensing entity that the licensee's license will
33 be suspended on a specific date, and this date shall be no longer
34 than 30 days from the date the form is mailed. The licensee shall
35 be further notified that the license will remain suspended until a
36 new release is issued in accordance with subdivision (h).

37 (k) The *State Board of Equalization* and the Franchise Tax
38 Board may enter into interagency agreements with the state
39 governmental licensing entities necessary to implement this section,
40 to the extent that it is cost effective to implement this section.

1 (l) Notwithstanding any other law, a state governmental
2 licensing entity, with the approval of the appropriate department
3 director or governing body, may impose a fee on a licensee whose
4 license has been suspended pursuant to this section. The fee shall
5 not exceed the amount necessary for the state governmental
6 licensing entity to cover its costs in carrying out the provisions of
7 this section. Fees imposed pursuant to this section shall be
8 deposited in the fund in which other fees imposed by the state
9 governmental licensing entity are deposited and shall be available
10 to that entity upon appropriation in the annual Budget Act.

11 (m) The process described in subdivision (h) shall constitute
12 the sole administrative remedy for contesting the issuance of a
13 temporary license or the denial or suspension of a license under
14 this section. The procedures specified in the administrative
15 adjudication provisions of the Administrative Procedure Act
16 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title
18 2 of the Government Code) shall not apply to the denial,
19 suspension, or failure to issue or renew a license or the issuance
20 of a temporary license pursuant to this section.

21 (n) Any state governmental licensing entity receiving an inquiry
22 as to the licensed status of an applicant or licensee who has had a
23 license denied or suspended under this section or who has been
24 granted a temporary license under this section shall respond only
25 that the license was denied or suspended or the temporary license
26 was issued pursuant to this section. Information collected pursuant
27 to this section by any state agency, board, or department shall be
28 subject to the Information Practices Act of 1977 (Chapter 1
29 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
30 3 of the Civil Code).

31 (o) Any rules and regulations issued pursuant to this section by
32 any state agency, board, or department may be adopted as
33 emergency regulations in accordance with the rulemaking
34 provisions of the Administrative Procedure Act (Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code). The adoption of these regulations
37 shall be deemed an emergency and necessary for the immediate
38 preservation of the public peace, health, and safety, or general
39 welfare. The regulations shall become effective immediately upon
40 filing with the Secretary of State.

1 (p) The *State Board of Equalization*, the Franchise Tax Board,
2 and state governmental licensing entities, as appropriate, shall
3 adopt regulations as necessary to implement this section.

4 (q) (1) Neither the state governmental licensing entity, nor any
5 officer, employee, or agent, or former officer, employee, or agent
6 of a state governmental licensing entity, may disclose or use any
7 information obtained from *the State Board of Equalization* or the
8 Franchise Tax Board, pursuant to this section, except to inform
9 the public of the suspension of a license pursuant to this section.
10 The release or other use of information received by a state
11 governmental licensing entity pursuant to this section, except as
12 authorized by this section, is punishable as a misdemeanor. This
13 subdivision may not be interpreted to prevent the State Bar of
14 California from filing a request with the Supreme Court of
15 California to suspend a member of the bar pursuant to this section.

16 (2) To the extent permitted under federal law, a suspension or
17 revocation of a license pursuant to this section shall not be reported
18 to the National Practitioner Data Bank.

19 (r) If any provision of this section or the application thereof to
20 any person or circumstance is held invalid, that invalidity shall not
21 affect other provisions or applications of this section that can be
22 given effect without the invalid provision or application, and to
23 this end the provisions of this section are severable.

24 (s) All rights to review afforded by this section to an applicant
25 shall also be afforded to a licensee.

26 (t) (1) If the state governmental licensing entity, as defined in
27 Section 6834 or 19265 of the Revenue and Taxation Code, does
28 not suspend, revoke, or deny renewal of a license within 90 days
29 of the mailing of preliminary notice as described in subdivision
30 (f), *the State Board of Equalization* or the Franchise Tax Board,
31 *whichever is applicable*, is authorized to suspend the license
32 pursuant to Section 6834 or 19265 of the Revenue and Taxation
33 Code.

34 (2) If the state governmental licensing entity has not suspended,
35 revoked, or denied the renewal of a license within 90 days of the
36 mailing of the preliminary notice as described in subdivision (e),
37 the state governmental licensing entity shall promptly notify *the*
38 *State Board of Equalization* or the Franchise Tax Board, *whichever*
39 *is applicable*, and the licensee. The notification shall include the

1 reason why no action was taken by the state governmental licensing
2 entity.

3 (3) If the election described in subparagraph (B) of paragraph
4 (4) of subdivision (b) has been made, *the State Board of*
5 *Equalization or the Franchise Tax Board, whichever is applicable,*
6 is authorized to suspend, pursuant to Section 6834 or 19265 of the
7 Revenue and Taxation Code, the license of a licensee subject to
8 the jurisdiction of the entity that made that election.

9 (u) Unless otherwise provided in this section, the policies,
10 practices, and procedures of a state governmental licensing entity
11 with respect to license suspensions under this section shall be the
12 same as those applicable with respect to suspensions pursuant to
13 Section 17520 of the Family Code.

14 (v) No provision of this section shall be interpreted to allow a
15 court to review and prevent the collection of ~~income~~ taxes prior
16 to the payment of those taxes in violation of the California
17 Constitution.

18 (w) This section shall apply to any licensee whose name appears
19 on ~~a list~~ *the lists* of the ~~250~~ 500 largest tax delinquencies pursuant
20 to ~~Section~~ Sections 7063 and 19195 of the Revenue and Taxation
21 Code on or after January 1, 2012.

22 SEC. 4. Section 7145.5 of the Business and Professions Code
23 is amended to read:

24 7145.5. (a) The registrar may refuse to issue, reinstate,
25 reactivate, or renew a license or may suspend a license for the
26 failure of a licensee to resolve all outstanding final liabilities, which
27 include taxes, additions to tax, penalties, interest, and any fees that
28 may be assessed by the board, the Department of Industrial
29 Relations, the Employment Development Department, or the
30 Franchise Tax Board.

31 (1) Until the debts covered by this section are satisfied, the
32 qualifying person and any other personnel of record named on a
33 license that has been suspended under this section shall be
34 prohibited from serving in any capacity that is subject to licensure
35 under this chapter, but shall be permitted to act in the capacity of
36 a nonsupervising bona fide employee.

37 (2) The license of any other renewable licensed entity with any
38 of the same personnel of record that have been assessed an
39 outstanding liability covered by this section shall be suspended

1 until the debt has been satisfied or until the same personnel of
2 record disassociate themselves from the renewable licensed entity.

3 (b) The refusal to issue a license or the suspension of a license
4 as provided by this section shall be applicable only if the registrar
5 has mailed a notice preliminary to the refusal or suspension that
6 indicates that the license will be refused or suspended by a date
7 certain. This preliminary notice shall be mailed to the licensee at
8 least 60 days before the date certain.

9 (c) In the case of outstanding final liabilities assessed by the
10 Franchise Tax Board, this section shall be operative within 60 days
11 after the Contractors' State License Board has provided the
12 Franchise Tax Board with the information required under Section
13 30, relating to licensing information that includes the federal
14 employee identification number or social security number.

15 (d) All versions of the application for contractors' licenses shall
16 include, as part of the application, an authorization by the applicant,
17 in the form and manner mutually agreeable to the Franchise Tax
18 Board and the board, for the Franchise Tax Board to disclose the
19 tax information that is required for the registrar to administer this
20 section. The Franchise Tax Board may from time to time audit
21 these authorizations.

22 (e) This section shall not be interpreted to conflict with the
23 suspension of a license pursuant to Section 494.5 of this code or
24 Section 19265 of the Revenue and Taxation Code.

25 *SEC. 4.5. Section 7145.5 of the Business and Professions Code*
26 *is amended to read:*

27 7145.5. (a) The registrar may refuse to issue, reinstate,
28 reactivate, or renew a license or may suspend a license for the
29 failure of a licensee to resolve all outstanding final liabilities, which
30 include taxes, additions to tax, penalties, interest, and any fees that
31 may be assessed by the board, the Department of Industrial
32 Relations, the Employment Development Department, ~~or the~~
33 Franchise Tax Board, *or the State Board of Equalization.*

34 (1) Until the debts covered by this section are satisfied, the
35 qualifying person and any other personnel of record named on a
36 license that has been suspended under this section shall be
37 prohibited from serving in any capacity that is subject to licensure
38 under this chapter, but shall be permitted to act in the capacity of
39 a nonsupervising bona fide employee.

1 (2) The license of any other renewable licensed entity with any
2 of the same personnel of record that have been assessed an
3 outstanding liability covered by this section shall be suspended
4 until the debt has been satisfied or until the same personnel of
5 record disassociate themselves from the renewable licensed entity.

6 (b) The refusal to issue a license or the suspension of a license
7 as provided by this section shall be applicable only if the registrar
8 has mailed a notice preliminary to the refusal or suspension that
9 indicates that the license will be refused or suspended by a date
10 certain. This preliminary notice shall be mailed to the licensee at
11 least 60 days before the date certain.

12 (c) In the case of outstanding final liabilities assessed by the
13 Franchise Tax Board, this section shall be operative within 60 days
14 after the Contractors' State License Board has provided the
15 Franchise Tax Board with the information required under Section
16 30, relating to licensing information that includes the federal
17 employee identification number or social security number.

18 (d) All versions of the application for contractors' licenses shall
19 include, as part of the application, an authorization by the applicant,
20 in the form and manner mutually agreeable to the Franchise Tax
21 Board and the board, for the Franchise Tax Board to disclose the
22 tax information that is required for the registrar to administer this
23 section. The Franchise Tax Board may from time to time audit
24 these authorizations.

25 (e) *In the case of outstanding final liabilities assessed by the*
26 *State Board of Equalization, this section shall not apply to any*
27 *outstanding final liability if the licensee has entered into an*
28 *installment payment agreement for that liability with the State*
29 *Board of Equalization and is in compliance with the terms of that*
30 *agreement.*

31 (f) *This section shall not be interpreted to conflict with the*
32 *suspension of a license pursuant to Section 494.5 of this code or*
33 *Section 6834 or 19265 of the Revenue and Taxation Code.*

34 SEC. 5. Section 12419.13 is added to the Government Code,
35 to read:

36 12419.13. (a) (1) The Controller shall, upon execution of a
37 reciprocal agreement between *the State Board of Equalization or*
38 *the Franchise Tax Board, and any other state imposing a sales and*
39 *use tax, an income tax, or tax measured by income, offset any*
40 *delinquent tax debt due to that other state from a person or entity,*

1 against any refund under *the Sales and Use Tax Law*, the Personal
2 Income Tax Law, or the Corporation Tax Law owed to that person
3 or entity.

4 (2) Standards and procedures for submission of requests for
5 offsets shall be as prescribed by the Controller.

6 (3) Payment of the offset amount shall occur only after other
7 offset requests for debts owed by a person or entity to this state or
8 the federal government have been satisfied in accordance with the
9 priority established under Section 12419.3.

10 (b) The reciprocal agreement identified in subdivision (a) shall
11 prescribe the manner in which the administrative costs of the
12 Controller, *the State Board of Equalization*, and the Franchise Tax
13 Board shall be reimbursed.

14 SEC. 6. Section 10295.4 is added to the Public Contract Code,
15 to read:

16 10295.4. (a) Notwithstanding any other law, a state agency
17 shall not enter into any contract for the acquisition of goods or
18 services with a contractor whose name appears on ~~the~~ *either* list
19 of the ~~250~~ 500 largest tax delinquencies pursuant to Section 7063
20 or 19195 of the Revenue and Taxation Code. Any contract entered
21 into in violation of this subdivision is void and unenforceable.

22 (b) This section shall apply to any contract executed on or after
23 January 1, 2012.

24 SEC. 7. Section 6834 is added to the Revenue and Taxation
25 Code, to read:

26 6834. (a) (1) *All state governmental licensing entities issuing*
27 *professional or occupational licenses, certificates, registrations,*
28 *or permits shall provide to the board the name and social security*
29 *number or federal taxpayer identification number, as applicable,*
30 *of each licensee of that state governmental licensing entity.*

31 (2) *If any licensee appears on a list of the 500 largest tax*
32 *delinquencies pursuant to Section 7063, and the license of that*
33 *licensee has not been suspended, revoked, or denied by the*
34 *applicable state governmental licensing entity pursuant to Section*
35 *494.5 of the Business and Professions Code, then the board shall*
36 *mail a preliminary notice of suspension to the licensee indicating*
37 *that the license will be suspended by a date certain, which shall*
38 *be at least 60 days after the mailing of the preliminary notice,*
39 *unless prior to the date certain the licensee pays the unpaid taxes*
40 *or enters into an installment payment agreement, as described in*

1 *Section 6832, to satisfy the unpaid taxes. The preliminary notice*
2 *shall also advise the licensee of the opportunity to request deferral*
3 *or cancellation of a suspension pursuant to subdivision (b).*

4 *(3) If any licensee subject to paragraph (2) fails to pay the*
5 *unpaid taxes or to enter into an installment payment agreement,*
6 *as described in Section 6832, to satisfy the unpaid taxes prior to*
7 *the date certain listed in the preliminary notice of suspension, his*
8 *or her license shall be automatically suspended by operation of*
9 *this section, except as provided in subdivision (b), and the board*
10 *shall provide a notice of suspension to the applicable state*
11 *governmental licensing entity and shall mail a notice of suspension*
12 *to the licensee. The rights, powers, and privileges of any licensee*
13 *whose license to drive a motor vehicle, professional or*
14 *occupational license, certificate, registration, or permit has been*
15 *suspended pursuant to this section shall be subject to the same*
16 *prohibitions, limitations, and restrictions as if the license to drive*
17 *a motor vehicle, professional or occupational license, certificate,*
18 *registration, or permit were suspended by the state governmental*
19 *licensing entity that issued the professional or occupational license,*
20 *certificate, registration, or permit.*

21 *(4) (A) Upon compliance by the licensee with the tax obligation,*
22 *either by payment of the unpaid taxes or entry into an installment*
23 *payment agreement, as described in Section 6832, to satisfy the*
24 *unpaid taxes, a suspension pursuant to this subdivision shall be*
25 *canceled. The board shall, within 10 business days of compliance*
26 *by the licensee with the tax obligation, notify both the state*
27 *governmental licensing entity and the licensee that the unpaid*
28 *taxes have been paid or that an installment payment agreement,*
29 *as described in Section 6832, has been entered into to satisfy the*
30 *unpaid taxes and that the suspension has been canceled.*

31 *(B) Whenever a suspension is canceled under this paragraph*
32 *and the applicable license or licenses have been suspended in*
33 *error, the board shall notify the state governmental licensing entity*
34 *to reinstate all applicable licenses back to the date of suspension*
35 *and expunge any notation of that suspension from the licensee's*
36 *record.*

37 *(5) If a license is not suspended, or if the suspension of a license*
38 *is canceled, based on the licensee entering into an installment*
39 *payment agreement as described in Section 6832, and the licensee*
40 *fails to comply with the terms of the installment payment*

1 agreement, that license shall be suspended as of the date that is
2 30 days after the date of termination of that installment payment
3 agreement. If a license is suspended pursuant to this paragraph,
4 the board shall provide notice of suspension to the applicable state
5 governmental licensing entity and mail a notice of suspension to
6 the licensee.

7 (6) State governmental licensing entities shall provide to the
8 board the information required by this subdivision at a time that
9 the board may require.

10 (b) (1) The board may defer or cancel any suspension
11 authorized by this section if a licensee is unable to pay the liability
12 due to a current financial hardship. The board shall, if requested
13 by the licensee in writing, provide for an administrative hearing
14 to determine if the licensee is unable to pay the liability due to a
15 current financial hardship.

16 (2) The request for a hearing specified in paragraph (1) shall
17 be made in writing within 30 days from the mailing date of the
18 preliminary notice described in subdivision (a).

19 (3) The board shall conduct a hearing within 30 days after
20 receipt of a request pursuant to paragraph (1), unless the board
21 postpones the hearing, upon a showing of good cause by the
22 licensee, in which case a suspension pursuant to subdivision (a)
23 shall be deferred until the hearing has been completed.

24 (4) A licensee seeking relief under this subdivision shall only
25 be entitled to relief described in paragraph (1) if the licensee
26 provides the board with financial documents that substantiate a
27 financial hardship, and agrees to an acceptable payment
28 arrangement.

29 (5) If the deferral of a suspension of a license under this
30 subdivision is no longer operative, that license shall be suspended
31 as of the date that is 30 days after the date the deferral is no longer
32 operative. If a license is suspended pursuant to this paragraph,
33 the board shall provide notice of suspension to the applicable state
34 governmental licensing entity and mail a notice of suspension to
35 the licensee.

36 (c) For purposes of this section and Section 7057, the following
37 definitions shall apply:

38 (1) "Financial hardship" means financial hardship, as
39 determined by the board, where the licensee is financially unable
40 to pay any part of the amount described in subdivision (a). In order

1 *to establish the existence of a financial hardship, the licensee shall*
2 *submit any information, including information related to*
3 *reasonable business and personal expenses, requested by the board*
4 *for the purpose of making that determination.*

5 (2) *“License” includes a certificate, registration, or any other*
6 *authorization to engage in a profession or occupation issued by*
7 *a state governmental licensing entity. “License” includes a driver’s*
8 *license issued pursuant to Chapter 1 (commencing with Section*
9 *12500) of Division 6 of the Vehicle Code.*

10 (3) *“Licensee” means an individual authorized by a license to*
11 *drive a motor vehicle or authorized by a license, certificate,*
12 *registration, or other authorization to engage in a profession or*
13 *occupation issued by a state governmental licensing entity.*

14 (4) *“State governmental licensing entity” means any entity listed*
15 *in Section 101, 1000, or 19420 of the Business and Professions*
16 *Code, the office of the Attorney General, the Department of*
17 *Insurance, the Department of Motor Vehicles, the Department of*
18 *Real Estate, and any other state agency, board, or commission*
19 *that issues a license, certificate, or registration authorizing an*
20 *individual to engage in a profession or occupation, including any*
21 *certificate, business or occupational license, or permit or license*
22 *issued by the Department of Motor Vehicles or the Department of*
23 *the California Highway Patrol. “State governmental licensing*
24 *entity” shall not include the Department of Alcoholic Beverage*
25 *Control or the State Bar of California.*

26 (d) *Notwithstanding any other law, a state governmental*
27 *licensing entity may, with the approval of the appropriate*
28 *department director or governing body, impose a fee on licensees*
29 *whose license has been suspended as described in subdivision (a).*
30 *The fee shall not exceed the amount necessary for the state*
31 *governmental licensing entity to cover its costs in carrying out the*
32 *provisions of this section. Fees imposed pursuant to this section*
33 *shall be deposited in the fund in which other fees imposed by the*
34 *state governmental licensing entity are deposited and shall be*
35 *available to that entity upon appropriation in the annual Budget*
36 *Act.*

37 (e) *The process described in subdivision (b) shall constitute the*
38 *sole administrative remedy for contesting the suspension of a*
39 *license under this section. The procedures in the administrative*
40 *adjudication provisions of the Administrative Procedure Act*

1 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of Title
3 2 of the Government Code) shall not apply to the suspension of a
4 license pursuant to this section.

5 (f) This section shall apply to any licensee whose name appears
6 on a list of the 500 largest tax delinquencies pursuant to Section
7 7063 on or after January 1, 2012.

8 SEC. 8. Section 6835 is added to the Revenue and Taxation
9 Code, to read:

10 6835. (a) The board may enter into an agreement with the
11 Internal Revenue Service or any other state imposing a sales and
12 use tax, or a similar tax, for the purpose of collecting delinquent
13 tax debts with respect to amounts assessed or imposed under this
14 part, provided the agreements do not cause the net displacement
15 of civil service employees. The agreement may provide, at the
16 discretion of the board, the rate of payment and the manner in
17 which compensation for services shall be paid.

18 (b) At the discretion of the board, the Internal Revenue Service
19 or the other state collecting the tax debt pursuant to subdivision
20 (a) may, as part of the collection process, refer the tax debt for
21 litigation by its legal representatives in the name of the board.

22 (c) For purposes of this section, "displacement" includes layoff,
23 demotion, involuntary transfer to a new class, involuntary transfer
24 to a new location requiring a change of residence, and time base
25 reductions. "Displacement" does not include changes in shifts or
26 days off, nor does it include reassignment to any other position
27 within the same class and general location.

28 SEC. 9. Article 9 (commencing with Section 6850) is added to
29 Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation
30 Code, to read:

31
32 Article 9. Collection of Tax Debts Due to the Internal Revenue
33 Services or Other States
34

35 6850. (a) The board may enter into an agreement to collect
36 any delinquent tax debt due to the Internal Revenue Service or any
37 other state imposing a sales and use tax, or similar tax, if, pursuant
38 to Section 6851, the Internal Revenue Service or such a state has
39 entered into an agreement to collect delinquent tax debts due to
40 the board.

1 (b) Upon written notice to the debtor from the board, any
2 amount referred to the board under subdivision (a) shall be treated
3 as final and due and payable to the State of California, and shall
4 be collected from the debtor by the board in any manner authorized
5 under the law for collection of a delinquent sales and use tax
6 liability, including, but not limited to, the recording of a notice of
7 state tax lien under Article 2 (commencing with Section 7170) of
8 Chapter 14 of Division 7 of Title 1 of the Government Code, and
9 the issuance of an order and levy under Article 4 (commencing
10 with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part
11 2 of the Code of Civil Procedure in the manner provided for
12 earnings withholding orders for taxes.

13 (c) This part shall apply to amounts referred under this section
14 in the same manner and with the same force and effect and to the
15 full extent as if the language of those laws had been incorporated
16 in full into this section, except to the extent that any provision is
17 either inconsistent with this section or is not relevant to this section.

18 (d) The activities required to implement and administer this
19 section shall not interfere with the primary mission of the board
20 to administer this part.

21 (e) In no event shall a collection under this section be construed
22 as a payment of sales and use taxes imposed under this part, or in
23 accordance with Part 1.5 or Part 1.6.

24 SEC. 10. Section 7057 is added to the Revenue and Taxation
25 Code, to read:

26 7057. (a) The board may disclose to state governmental
27 licensing entities information regarding suspension of a license
28 pursuant to Section 6834 of this code or Section 494.5 or 7145.5
29 of the Business and Professions Code.

30 (b) Neither the state governmental licensing entity, nor any
31 officer, employee, or agent, or former officer, employee, or agent
32 of a state governmental licensing entity, may disclose or use any
33 information obtained from the board, pursuant to this section,
34 except to inform the public of the suspension of a license pursuant
35 to Section 6834 of this code or Section 494.5 or 7145.5 of the
36 Business and Professions Code.

37 (c) For purposes of this section, the definitions in Section 6834
38 shall apply.

39 SEC. 11. Section 7063 of the Revenue and Taxation Code is
40 amended to read:

1 7063. (a) Notwithstanding any other provision of law, the
2 board shall make available as a matter of public record each quarter
3 a list of the ~~250~~ 500 largest tax delinquencies in excess of one
4 hundred thousand dollars (\$100,000) under this part. For purposes
5 of compiling the list, a tax delinquency means an amount owed to
6 the board which is all of the following:

7 (1) Based on a determination made under Article 2 (commencing
8 with Section 6481) or Article 3 (commencing with Section 6511)
9 of Chapter 5 deemed final pursuant to Article 5 (commencing with
10 Section 6561) of Chapter 5, or that is “due and payable” under
11 Article 4 (commencing with Section 6536) of Chapter 5, or
12 self-assessed by the taxpayer.

13 (2) Recorded as a notice of state tax lien pursuant to Chapter
14 14 (commencing with Section 7150) of Division 7 of Title 1 of
15 the Government Code, in any county recorder’s office in this state.

16 (3) For an amount of tax delinquent for more than 90 days.

17 (b) For purposes of the list, a tax delinquency does not include
18 any of the following and may not be included on the list:

19 (1) A delinquency that is under litigation in a court of law.

20 (2) A delinquency for which payment arrangements have been
21 agreed to by both the taxpayer and the board and the taxpayer is
22 in compliance with the arrangement.

23 (3) A delinquency for which the taxpayer has filed for
24 bankruptcy protection pursuant to Title 11 of the United States
25 Code.

26 (c) Each quarterly list shall, with respect to each delinquency,
27 include all the following:

28 (1) The name of the person or persons liable for payment of the
29 tax and that person’s or persons’ last known address.

30 (2) The amount of tax delinquency as shown on the notice or
31 notices of state tax lien and any applicable interest or penalties,
32 less any amounts paid.

33 (3) The earliest date that a notice of state tax lien was filed.

34 (4) The type of tax that is delinquent.

35 (d) Prior to making a tax delinquency a matter of public record
36 as required by this section, the board shall provide a preliminary
37 written notice to the person or persons liable for the tax by certified
38 mail, return receipt requested. If within 30 days after issuance of
39 the notice, the person or persons do not remit the amount due or

1 make arrangements with the board for payment of the amount due,
2 the tax delinquency shall be included on the list.

3 (e) The quarterly list described in subdivision (a) shall include
4 the following:

5 (1) The telephone number and address of the board office to
6 contact if a person believes placement of his or her name on the
7 list is in error.

8 (2) The aggregate number of persons that have appeared on the
9 list who have satisfied their delinquencies in their entirety and the
10 dollar amounts, in the aggregate, that have been paid attributable
11 to those delinquencies.

12 (f) As promptly as feasible, but no later than 5 business days
13 from the occurrence of any of the following, the board shall remove
14 that taxpayer's name from the list of tax delinquencies:

15 (1) Tax delinquencies for which the person liable for the tax
16 has contacted the board and resolution of the delinquency has been
17 arranged.

18 (2) Tax delinquencies for which the board has verified that an
19 active bankruptcy proceeding has been initiated.

20 (3) Tax delinquencies for which the board has verified that a
21 bankruptcy proceeding has been completed and there are no assets
22 available with which to pay the delinquent amount or amounts.

23 (4) Tax delinquencies that the board has determined to be
24 uncollectible.

25 (g) A person whose delinquency appears on the quarterly list,
26 and who satisfies that delinquency in whole or in part, may request
27 the board to include in its quarterly list any payments that person
28 made to satisfy the delinquency. Upon receipt of that request, the
29 board shall include those payments on the list as promptly as
30 feasible.

31 (h) Notwithstanding subdivision (a), a person whose delinquency
32 appeared on the quarterly list and whose name has been removed
33 pursuant to paragraph (1) of subdivision (f) shall comply with the
34 terms of the arranged resolution. If a person fails to do so, the
35 board shall add that person's name to the list of delinquencies
36 without providing the prior written notice required by subdivision
37 (d).

38 ~~SEC. 7.~~

39 *SEC. 12.* Section 19195 of the Revenue and Taxation Code is
40 amended to read:

1 19195. (a) Notwithstanding any other provision of law,
2 including Section 6254.21 of the Government Code, the Franchise
3 Tax Board shall make available as a matter of public record at
4 least twice each calendar year a list of the ~~250~~ 500 largest tax
5 delinquencies in excess of one hundred thousand dollars (\$100,000)
6 under Part 10 and Part 11 of this division. For purposes of
7 compiling the list, a tax delinquency means the total amount owed
8 by a taxpayer to the State of California for which a notice of state
9 tax lien has been recorded in any county recorder's office in this
10 state, pursuant to Chapter 14 (commencing with Section 7150) of
11 Division 7 of Title 1 of the Government Code.

12 (b) For purposes of the list, a tax delinquency does not include
13 any of the following and may not be included on the list:

14 (1) A delinquency for which payment arrangements have been
15 agreed to by both the taxpayer and the Franchise Tax Board and
16 the taxpayer is in compliance with the arrangement.

17 (2) A delinquency for which the taxpayer has filed for
18 bankruptcy protection pursuant to Title 11 of the United States
19 Code.

20 (3) A delinquency for which the person or persons liable for the
21 tax have contacted the Franchise Tax Board and for which
22 resolution of the tax delinquency has been accepted by the
23 Franchise Tax Board.

24 (c) Each list shall, with respect to each delinquency, include all
25 the following:

26 (1) The name of the person or persons liable for payment of the
27 tax and that person's or persons' address.

28 (2) The amount of tax delinquency as shown on the notice or
29 notices of state tax lien and any applicable interest or penalties,
30 less any amounts paid.

31 (3) The earliest date that a notice of state tax lien was filed.

32 (4) The type of tax that is delinquent.

33 (5) The type, status, and license number of any occupational or
34 professional license held by the person or persons liable for
35 payment of the tax.

36 (6) The names and titles of the principal officers of the person
37 liable for payment of the tax if that person is a limited liability
38 company or corporation.

39 (d) Prior to making a tax delinquency a matter of public record
40 as required by this section, the Franchise Tax Board shall provide

1 a preliminary written notice to the person or persons liable for the
2 tax by certified mail, return receipt requested. If within 30 days
3 after issuance of the notice, the person or persons do not remit the
4 amount due or make arrangements with the Franchise Tax Board
5 for payment of the amount due, the tax delinquency shall be
6 included on the list.

7 (e) The list described in subdivision (a) shall include the
8 following:

9 (1) The telephone number and address of the Franchise Tax
10 Board office to contact if a person believes placement of his or
11 her name on the list is in error.

12 (2) The aggregate number of persons that have appeared on the
13 list who have satisfied their delinquencies in their entirety and the
14 dollar amounts, in the aggregate, that have been paid attributable
15 to those delinquencies.

16 (f) As promptly as feasible, but no later than five business days
17 from the occurrence of any of the following, the Franchise Tax
18 Board shall remove that taxpayer's name from the list of tax
19 delinquencies:

20 (1) Tax delinquencies for which the person liable for the tax
21 has contacted the Franchise Tax Board and resolution of the
22 delinquency has been arranged.

23 (2) Tax delinquencies for which the Franchise Tax Board has
24 verified that an active bankruptcy proceeding has been initiated.

25 (3) Tax delinquencies for which the Franchise Tax Board has
26 verified that a bankruptcy proceeding has been completed and
27 there are no assets available with which to pay the delinquent
28 amount or amounts.

29 (4) Tax delinquencies that the Franchise Tax Board has
30 determined to be uncollectible.

31 (g) A person whose delinquency appears on the list, and who
32 satisfies that delinquency in whole or in part, may request the
33 Franchise Tax Board to include in its list any payments that person
34 made to satisfy the delinquency. Upon receipt of that request, the
35 Franchise Tax Board shall include those payments on the list as
36 promptly as feasible.

37 (h) Notwithstanding subdivision (a), a person whose delinquency
38 appeared on the list and whose name has been removed pursuant
39 to paragraph (1) of subdivision (f) shall comply with the terms of
40 the arranged resolution. If the person fails to do so, the Franchise

1 Tax Board may add that person's name to the list of delinquencies
2 without providing the prior written notice otherwise required by
3 subdivision (d).

4 ~~SEC. 8.~~

5 *SEC. 13.* Section 19265 is added to the Revenue and Taxation
6 Code, to read:

7 19265. (a) (1) All state governmental licensing entities issuing
8 professional or occupational licenses, certificates, registrations, or
9 permits shall provide to the Franchise Tax Board the name and
10 social security number or federal taxpayer identification number,
11 as applicable, of each licensee of that state governmental licensing
12 entity.

13 (2) If any licensee appears on a list of the ~~250~~ 500 largest tax
14 delinquencies pursuant to Section 19195, and the license of that
15 licensee has not been suspended, revoked, or denied by the
16 applicable state governmental licensing entity pursuant to Section
17 494.5 of the Business and Professions Code, then the Franchise
18 Tax Board shall mail a preliminary notice of suspension to the
19 licensee indicating that the license will be suspended by a date
20 certain, which shall be at least 60 days after the mailing of the
21 preliminary notice, unless prior to the date certain the licensee
22 pays the unpaid taxes or enters into an installment payment
23 agreement, as described in Section 19008, to satisfy the unpaid
24 taxes. The preliminary notice shall also advise the licensee of the
25 opportunity to request deferral or cancellation of a suspension
26 pursuant to subdivision (b).

27 (3) If any licensee subject to paragraph (2) fails to pay the unpaid
28 taxes or to enter into an installment payment agreement, as
29 described in Section 19008, to satisfy the unpaid taxes prior to the
30 date certain listed in the preliminary notice of suspension, his or
31 her license shall be automatically suspended by operation of this
32 section, except as provided in subdivision (b), and the Franchise
33 Tax Board shall provide a notice of suspension to the applicable
34 state governmental licensing entity and shall mail a notice of
35 suspension to the licensee. The rights, powers, and privileges of
36 any licensee whose license to drive a motor vehicle, professional
37 or occupational license, certificate, registration, or permit has been
38 suspended pursuant to this section shall be subject to the same
39 prohibitions, limitations, and restrictions as if the license to drive
40 a motor vehicle, professional or occupational license, certificate,

1 registration, or permit were suspended by the state governmental
2 licensing entity that issued the professional or occupational license,
3 certificate, registration, or permit.

4 (4) (A) Upon compliance by the licensee with the tax obligation,
5 either by payment of the unpaid taxes or entry into an installment
6 payment agreement, as described in Section 19008, to satisfy the
7 unpaid taxes, a suspension pursuant to this subdivision shall be
8 canceled. The Franchise Tax Board shall, within 10 business days
9 of compliance by the licensee with the tax obligation, notify both
10 the state governmental licensing entity and the licensee that the
11 unpaid taxes have been paid or that an installment payment
12 agreement, as described in Section 19008, has been entered into
13 to satisfy the unpaid taxes and that the suspension has been
14 canceled.

15 (B) Whenever a suspension is canceled under this paragraph
16 and the applicable license or licenses have been suspended in error,
17 the Franchise Tax Board shall notify the state governmental
18 licensing entity to reinstate all applicable licenses back to the date
19 of suspension and expunge any notation of that suspension from
20 the licensee's record.

21 (5) If a license is not suspended, or if the suspension of a license
22 is canceled, based on the licensee entering into an installment
23 payment agreement as described in Section 19008, and the licensee
24 fails to comply with the terms of the installment payment
25 agreement, that license shall be suspended as of the date that is 30
26 days after the date of termination of that installment payment
27 agreement. If a license is suspended pursuant to this paragraph,
28 the Franchise Tax Board shall provide notice of suspension to the
29 applicable state governmental licensing entity and mail a notice
30 of suspension to the licensee.

31 (6) State governmental licensing entities shall provide to the
32 Franchise Tax Board the information required by this subdivision
33 at a time that the Franchise Tax Board may require.

34 (b) (1) The Franchise Tax Board may defer or cancel any
35 suspension authorized by this section if a licensee is unable to pay
36 the liability due to a current financial hardship. The Franchise Tax
37 Board shall, if requested by the licensee in writing, provide for an
38 administrative hearing to determine if the licensee is unable to pay
39 the liability due to a current financial hardship.

1 (2) The request for a hearing specified in paragraph (1) shall be
2 made in writing within 30 days from the mailing date of the
3 preliminary notice described in subdivision (a).

4 (3) The Franchise Tax Board shall conduct a hearing within 30
5 days after receipt of a request pursuant to paragraph (1), unless
6 the board postpones the hearing, upon a showing of good cause
7 by the licensee, in which case a suspension pursuant to subdivision
8 (a) shall be deferred until the hearing has been completed.

9 (4) A licensee seeking relief under this subdivision shall only
10 be entitled to relief described in paragraph (1) if the licensee
11 provides the Franchise Tax Board with financial documents that
12 substantiate a financial hardship, and agrees to an acceptable
13 payment arrangement.

14 (5) If the deferral of a suspension of a license under this
15 subdivision is no longer operative, that license shall be suspended
16 as of the date that is 30 days after the date the deferral is no longer
17 operative. If a license is suspended pursuant to this paragraph, the
18 Franchise Tax Board shall provide notice of suspension to the
19 applicable state governmental licensing entity and mail a notice
20 of suspension to the licensee.

21 (c) For purposes of this section and Section 19571, the following
22 definitions shall apply:

23 (1) "Financial hardship" means financial hardship within the
24 meaning of Section 19008, as determined by the Franchise Tax
25 Board, where the licensee is financially unable to pay any part of
26 the amount described in subdivision (a) and the licensee is unable
27 to qualify for an installment payment arrangement as provided for
28 by Section 19008. In order to establish the existence of a financial
29 hardship, the licensee shall submit any information, including
30 information related to reasonable business and personal expenses,
31 requested by the Franchise Tax Board for the purpose of making
32 that determination.

33 (2) "License" includes a certificate, registration, or any other
34 authorization to engage in a profession or occupation issued by a
35 state governmental licensing entity. "License" includes a driver's
36 license issued pursuant to Chapter 1 (commencing with Section
37 12500) of Division 6 of the Vehicle Code.

38 (3) "Licensee" means an individual authorized by a license to
39 drive a motor vehicle or authorized by a license, certificate,

1 registration, or other authorization to engage in a profession or
2 occupation issued by a state governmental licensing entity.

3 (4) “State governmental licensing entity” means any entity listed
4 in Section 101, 1000, or 19420 of the Business and Professions
5 Code, the office of the Attorney General, the Department of
6 Insurance, the Department of Motor Vehicles, the Department of
7 Real Estate, and any other state agency, board, or commission that
8 issues a license, certificate, or registration authorizing an individual
9 to engage in a profession or occupation, including any certificate,
10 business or occupational license, or permit or license issued by
11 the Department of Motor Vehicles or the Department of the
12 California Highway Patrol. “State governmental licensing entity”
13 shall not include the Department of Alcoholic Beverage Control
14 or the State Bar of California.

15 (d) Notwithstanding any other law, a state governmental
16 licensing entity may, with the approval of the appropriate
17 department director or governing body, impose a fee on licensees
18 whose license has been suspended as described in subdivision (a).
19 The fee shall not exceed the amount necessary for the state
20 governmental licensing entity to cover its costs in carrying out the
21 provisions of this section. Fees imposed pursuant to this section
22 shall be deposited in the fund in which other fees imposed by the
23 state governmental licensing entity are deposited and shall be
24 available to that entity upon appropriation in the annual Budget
25 Act.

26 (e) The process described in subdivision (b) shall constitute the
27 sole administrative remedy for contesting the suspension of a
28 license under this section. The procedures in the administrative
29 adjudication provisions of the Administrative Procedure Act
30 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
31 (commencing with Section 11500) of Part 1 of Division 3 of Title
32 2 of the Government Code) shall not apply to the suspension of a
33 license pursuant to this section.

34 (f) This section shall apply to any licensee whose name appears
35 on a list of the ~~250~~ 500 largest tax delinquencies pursuant to
36 Section 19195 on or after January 1, 2012.

37 ~~SEC. 9.~~

38 *SEC. 14.* Article 7 (commencing with Section 19291) is added
39 to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation
40 Code, to read:

Article 7. Collection of Tax Debts Due to the Internal Revenue
Service or Other States

19291. (a) The Franchise Tax Board may enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax or tax measured by income if, pursuant to Section 19377.5, the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due the Franchise Tax Board.

(b) Upon written notice to the debtor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent income tax liability, including, but not limited to, the recording of a notice of state tax lien under Article 2 (commencing with Section 7170) of Chapter 14 of Division 7 of Title 1 of the Government Code, and the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(c) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(e) In no event shall a collection under this section be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

~~SEC. 10.~~

SEC. 15. Section 19377.5 is added to the Revenue and Taxation Code, to read:

1 19377.5. (a) The Franchise Tax Board may enter into an
2 agreement with the Internal Revenue Service or any other state
3 imposing an income tax or tax measured by income for the purpose
4 of collecting delinquent tax debts with respect to amounts assessed
5 or imposed under Part 10 (commencing with Section 17001), this
6 part, or Part 11 (commencing with Section 23001), provided the
7 agreements do not cause the net displacement of civil service
8 employees. The agreement may provide, at the discretion of the
9 Franchise Tax Board, the rate of payment and the manner in which
10 compensation for services shall be paid.

11 (b) At the discretion of the Franchise Tax Board, the Internal
12 Revenue Service or the other state collecting the tax debt pursuant
13 to subdivision (a) may, as part of the collection process, refer the
14 tax debt for litigation by its legal representatives in the name of
15 the Franchise Tax Board.

16 (c) For purposes of this section, “displacement” includes layoff,
17 demotion, involuntary transfer to a new class, involuntary transfer
18 to a new location requiring a change of residence, and time base
19 reductions. “Displacement” does not include changes in shifts or
20 days off, nor does it include reassignment to any other position
21 within the same class and general location.

22 ~~SEC. 11.~~

23 *SEC. 16.* Section 19571 is added to the Revenue and Taxation
24 Code, to read:

25 19571. (a) The Franchise Tax Board may disclose to state
26 governmental licensing entities information regarding suspension
27 of a license pursuant to Section 19265 of this code or Sections
28 494.5 or 7145.5 of the Business and Professions Code.

29 (b) Neither the state governmental licensing entity, nor any
30 officer, employee, or agent, or former officer, employee, or agent
31 of a state governmental licensing entity, may disclose or use any
32 information obtained from the Franchise Tax Board, pursuant to
33 this section, except to inform the public of the suspension of a
34 license pursuant to Section 19265 of this code or Sections 494.5
35 or 7145.5 of the Business and Professions Code.

36 (c) For purposes of this section, the definitions in Section 19265
37 shall apply.

38 *SEC. 17. Section 4.5 of this bill incorporates amendments to*
39 *Section 7145.5 of the Business and Professions Code proposed by*
40 *both this bill and A.B. 1307. It shall only become operative if (1)*

1 *both bills are enacted and become effective on or before January*
2 *1, 2012, (2) each bill amends Section 7145.5 of the Business and*
3 *Professions Code, and (3) this bill is enacted after A.B. 1307, in*
4 *which case Section 4 of this bill shall not become operative.*

5 ~~SEC. 12.~~

6 *SEC. 18.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 a local agency or school district has the authority to levy service
9 charges, fees, or assessments sufficient to pay for the program or
10 level of service mandated by this act or because costs that may be
11 incurred by a local agency or school district will be incurred
12 because this act creates a new crime or infraction, eliminates a
13 crime or infraction, or changes the penalty for a crime or infraction,
14 within the meaning of Section 17556 of the Government Code, or
15 changes the definition of a crime within the meaning of Section 6
16 of Article XIII B of the California Constitution.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 10, 2011
BILL ANALYSIS**

AUTHOR:	Huff	BILL NUMBER:	SB 161
SPONSOR:	Orange County Office of Education	BILL STATUS:	Assembly Appropriation
SUBJECT:	Schools: Emergency Medical Assistance: administration of epilepsy medication	DATE LAST AMENDED:	7/13/11

SUMMARY:

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. This bill would add and repeal a section of the Education Code relating to pupil health.

ANALYSIS:

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request.

The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available.

The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. It would require that the training be conducted by one or more of the following: a physician, a credentialed school nurse, a registered nurse or a credentialed public health nurse.

The bill would repeal these provisions on January 1, 2017.

Amended analysis as of 3/09/11:

This bill amendment would change the authorization for a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school. The emergency medical assistance to pupils with epilepsy suffering from seizures would be provided in accordance with **performance guidelines** instead of **standards**. It would provide for the guidelines to be developed in cooperation with the State Department of Education, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. The provision allowing the State Department of Public Health to approve performance standards would be deleted. Also, the physician assistant would be added to the list of persons who could conduct the training.

This amendment would also require the health care practitioner to include, in a written statement, the detailed information about seizure symptoms, including frequency, type, or length of seizures that identify when the administration of Diastat becomes necessary.

During the 2009-2010 Legislative Session, the Board followed SB1051 that had similar provisions as SB161. The Board took an Oppose position and the bill was held in committee.

Amended analysis as of 4/25/11:

This bill amendment would permit the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication. Before a training program could be placed on the clearinghouse of best practices, it would have to be approved by the Professional Advisory Board of the Epilepsy Foundations of Greater Los Angeles, San Diego County, and Northern California, in consultation with the Department.

This amendment also replaces the word "Diastat" with "emergency antiseizure medication" throughout the bill. It defines "emergency antiseizure medication" as diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials.

This amendment would also permit Licensed Vocational Nurses to be involved in the health care needs of children in schools.

Amended analysis as of 5/31/11:

This bill amendment authorizes the State Department of Public Health in consultation with the State Department of Education to develop the guidelines for the training and supervision of school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures. It provides that the electronic notice sent to staff requesting volunteers shall be the only means by which a school solicits volunteers.

Amended analysis as of 7/13/11:

This bill amendment, among other things, authorizes the State Department of Education in consultation with the State Department of Public Health to develop the guidelines for

training. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012.

BOARD POSITION: Oppose (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (3/10/11)

SUPPORT:

Association of Regional Center Agencies
The California Association of Joint Powers Authorities (If Amended)
California Association of School Business Officials
California Association of Suburban School Districts
California School Boards Association
Democrats for Education Reform
Disability Rights California
Epilepsy Foundation, California
Health Officers Association of California
Humboldt County Office of Education
Kern County Superintendent of Schools
Los Angeles County Office of Education
Los Angeles Unified School district
Orange County Department of Education
Riverside County School Superintendents' Association
Riverside Unified School District
Saddleback Valley Unified School District
San Bernardino County District Advocates for Better Schools
Small School Districts' Association
35 individuals

OPPOSE:

American Nurses Association-California
California Labor Federation
The California Federation of Teachers
California Association for Nurse Practitioners
California Nurses Association
California School Employees Association
California School Nurses Organization
California School Employees Association
California Teachers Association
Laborers International Union of North America, Local 777
Service Employees International Union-Nurses
Alliance of California
United Nurses Associations of CA-Union of Health Care Professionals
United Teachers Los Angeles

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff

(Coauthor: Senator Rubio)

(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to *participate in a program* to provide *nonmedical* school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by the ~~State Department of Public Health in~~

~~consultation with the State Department of Education~~ *State Department of Education in consultation with the State Department of Public Health. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012.* The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed an emergency antiseizure medication by the pupil's health care provider, to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer the emergency antiseizure medication, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school *district* that elects to train school employees to ~~distribute~~ *ensure that the school distributes* an electronic notice, as specified, to all staff regarding the request. The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions. The bill would make various legislative findings and declarations, and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) All individuals with exceptional needs have a right to
- 4 participate in a free appropriate public education, and that special
- 5 instruction and services for these individuals are needed in order
- 6 to ensure they have the right to an appropriate educational
- 7 opportunity to meet their unique needs in compliance with the
- 8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
- 9 1400 et seq.).
- 10 (2) The safety and welfare of a pupil with epilepsy is
- 11 compromised without immediate access to an emergency
- 12 antiseizure medication and, therefore, clarification is needed to
- 13 ensure that nonmedical school staff, who have volunteered and
- 14 have been trained in its correct administration, may administer an
- 15 emergency antiseizure medication.

1 (3) As used in this section, “immediate access” means the time
2 period that the pupil’s health care provider states that an antiseizure
3 medication must be administered, provided that it is within the
4 timeframe that a licensed medical person or paramedic can
5 reasonably be expected to respond and be available.

6 (b) It is the intent of the Legislature that individuals with
7 exceptional needs and children with disabilities under the federal
8 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
9 et seq.), *the federal Individuals with Disabilities Education Act*
10 *(20 U.S.C. Sec. 1400 et seq.)*, and Section 504 of the federal
11 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) shall have a right
12 to an appropriate educational opportunity to meet their unique
13 needs, and that children suffering from seizures due to epilepsy
14 have the right to appropriate programs and services that are
15 designed to meet their unique needs. In order to meet that goal, it
16 is the intent of the Legislature ~~to authorize nurses to~~ *that licensed*
17 *health care professionals* train and supervise employees of school
18 districts and county offices of education to administer an
19 emergency antiseizure medication to children with epilepsy in the
20 public schools. The American Academy of Pediatrics and the
21 Epilepsy Foundation of America support training of school
22 employees to administer an emergency antiseizure medication and
23 believe that an emergency antiseizure medication may be safely
24 and effectively administered by trained school employees. The
25 Legislature further finds and declares that, in the absence of a
26 credentialed school nurse or other licensed nurse onsite at the
27 school, it is in the best interest of the health and safety of children
28 to allow trained school employees to administer an emergency
29 antiseizure medication to pupils in public schools.

30 SEC. 2. Section 49414.7 is added to the Education Code, to
31 read:

32 49414.7. (a) It is the intent of the Legislature that, whenever
33 possible, an emergency antiseizure medication should be
34 administered by a school nurse or licensed vocational nurse who
35 has been trained in its administration.

36 (b) Notwithstanding Sections 2052 and 2732 of the Business
37 and Professions Code, in the absence of a credentialed school nurse
38 or other licensed nurse onsite at the school, a school district may
39 *elect to participate in a program, pursuant to this section, to allow*
40 *nonmedical employees to volunteer to provide medical assistance*

1 *to pupils with epilepsy suffering from seizures, upon request by a*
2 *parent or guardian pursuant to subdivision (c). If the school district*
3 *elects to participate in a program pursuant to this section, the*
4 *school district shall provide school employees, who volunteer*
5 *pursuant to this section, with voluntary emergency medical*
6 *training, that is consistent with the training guidelines established*
7 *pursuant to subdivision (m), to provide emergency medical*
8 *assistance to pupils with epilepsy suffering from seizures. A school*
9 *employee with voluntary emergency medical training shall provide*
10 *this emergency medical assistance using a training plan approved*
11 *on the department's Internet Web site pursuant to subdivision (m),*
12 *and the performance instructions set forth by the licensed health*
13 *care provider of the pupil. A school employee who does not*
14 *volunteer or who has not been trained pursuant to subdivision (m)*
15 *shall not be required to provide emergency medical assistance*
16 *pursuant to this section.*

17 (c) If a pupil with epilepsy has been prescribed an emergency
18 antiseizure medication by his or her health care provider, the
19 pupil's parent or guardian may request the pupil's school to have
20 one or more of its employees receive training pursuant to this
21 section in the administration of an emergency antiseizure
22 medication in the event that the pupil suffers a seizure when a
23 nurse is not available.

24 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
25 1973, as amended, (29 U.S.C. Sec. 794), *and the federal*
26 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
27 *et seq.)*, upon receipt of the parent's or guardian's request pursuant
28 to subdivision (c), the school shall notify the parent or guardian
29 that his or her child may qualify for services or accommodations
30 under the Section 504 plan *or an individualized education program*,
31 assist the parent or guardian with the exploration of that option,
32 and encourage the parent or guardian to adopt that option if it is
33 determined that the child is eligible for a Section 504 plan *or an*
34 *individualized education program*.

35 (e) The school may ask the parent or guardian to sign a notice
36 verifying that the parent or guardian was given information about
37 Section 504 of the federal Rehabilitation Act of 1973 *and the*
38 *federal Individuals with Disabilities Education Act (20 U.S.C. Sec.*
39 *1400 et seq.)*, and that the parent or guardian understands that it

1 is his or her right to request a Section 504 plan *or an individualized*
2 *education program* at any time.

3 (f) If the parent or guardian does not choose to have the pupil
4 assessed for a Section 504 plan *or an individualized education*
5 *program*, the school may create an individualized health plan,
6 seizure action plan, or other appropriate health plan designed to
7 acknowledge and prepare for the child's health care needs in
8 school. The plan may include the involvement of trained volunteer
9 school employees or a licensed vocational nurse.

10 (g) ~~If a school elects to train~~ *In training* employees pursuant to
11 this section, the school *district* shall ensure the following:

12 (1) A volunteer receives training from a licensed health care
13 professional regarding the administration of an emergency
14 antiseizure medication. A staff member who has completed training
15 shall, if he or she has not administered an emergency antiseizure
16 medication within the prior two years and there is a pupil enrolled
17 in the school who may need the administration of an antiseizure
18 medication, attend a new training program to retain the ability to
19 administer an emergency antiseizure medication.

20 (2) Any agreement by an employee to administer an emergency
21 antiseizure medication is voluntary, and an employee of the school
22 or school district shall not directly or indirectly use or attempt to
23 use his or her authority or influence for the purpose of intimidating,
24 threatening, coercing, or attempting to intimidate, threaten, or
25 coerce any staff member who does not choose to volunteer,
26 including, but not limited to, direct contact with the employee.

27 (3) Any employee who volunteers pursuant to this section may
28 rescind his or her offer to administer an emergency antiseizure
29 medication up to three days after the completion of the training.
30 After that time, a volunteer may rescind his or her offer to
31 administer an emergency antiseizure medication with a two-week
32 notice, or until a new individual health plan or Section 504 plan
33 has been developed for an affected pupil, whichever is less.

34 (4) The school shall distribute an electronic notice *no more than*
35 *twice per school year per child* to all staff that states the following
36 information in bold print:

37 (A) A description of the volunteer request, stating that the
38 request is for volunteers to administer an emergency antiseizure
39 medication to a pupil experiencing a severe epileptic seizure, in
40 the absence of a school nurse, and that this emergency antiseizure

1 medication is an FDA-approved, predosed, rectally administered
2 gel that reduces the severity of epileptic seizures.

3 (B) A description of the training that the volunteer will receive
4 pursuant to paragraph (1).

5 (C) A description of the voluntary nature of the volunteer
6 program, which includes the information described in paragraph
7 (2).

8 (D) The volunteer rescission timelines described in paragraph
9 (3).

10 (5) The electronic notice described in paragraph (4) shall be the
11 only means by which a school solicits volunteers.

12 (h) An employee who volunteers pursuant to this section shall
13 not be required to administer an emergency antiseizure medication
14 until completion of the training program adopted by the school
15 *district* and documentation of completion is recorded in his or her
16 personnel file.

17 (i) If a school *district* elects to participate pursuant to this
18 section, the school *district* shall ensure that each ~~volunteer~~
19 *employee who volunteers under this section* will be provided
20 defense and indemnification by the school, ~~in accordance with~~
21 *district for any and all civil liability, in accordance with, but not*
22 *limited to, that provided in Division 3.6 (commencing with Section*
23 *810) of Title 1 of the Government Code.* This information shall
24 be reduced to writing, provided to the volunteer, and retained in
25 the volunteer's personnel file.

26 (j) If there are no volunteers, then the school shall renotify the
27 pupil's parent or guardian of the option to be assessed for services
28 and accommodations guaranteed under Section 504 of the federal
29 Rehabilitation Act of 1973 *and the federal Individuals with*
30 *Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).*

31 (k) A school *district* that elects to participate pursuant to this
32 section shall have in place a school *district* plan that shall include,
33 but not be limited to, all of the following:

34 (1) Identification of existing licensed staff within the district or
35 region who could be trained in the administration of an emergency
36 antiseizure medication and could be available to respond to an
37 emergency need to administer an emergency antiseizure
38 medication. The school ~~shall consult with the school district or~~
39 *district shall consult with the county office of education* to obtain
40 this information.

1 (2) Identification of pupils who may require the administration
2 of an emergency antiseizure medication.

3 (3) Written authorization from the parent or guardian for a
4 nonmedical school employee to administer an emergency
5 antiseizure medication.

6 (4) The requirement that the parent or guardian notify the school
7 if the pupil has had an emergency antiseizure medication
8 administered within the past four hours on a schoolday.

9 (5) Notification of the parent or guardian, *by the school*
10 *administrator or, if the administrator is not available, by another*
11 *school staff member*, that an emergency antiseizure medication
12 has been administered.

13 (6) A written statement from the pupil's health care practitioner
14 that shall include, but not be limited to, all of the following:

15 (A) The pupil's name.

16 (B) The name and purpose of the medication.

17 (C) The prescribed dosage.

18 (D) Detailed seizure symptoms, including frequency, type, or
19 length of seizures that identify when the administration of an
20 emergency antiseizure medication becomes necessary.

21 (E) The method of administration.

22 (F) The frequency with which the medication may be
23 administered.

24 (G) The circumstances under which the medication may be
25 administered.

26 (H) Any potential adverse responses by the pupil and
27 recommended mitigation actions, including when to call emergency
28 services.

29 (I) A protocol for observing the pupil after a seizure, including,
30 but not limited to, whether the pupil should rest in the school office,
31 whether the pupil may return to class, and the length of time the
32 pupil should be under direct observation.

33 (J) Following a seizure, the pupil's parent and guardian and the
34 school nurse shall be contacted *by the school administrator or, if*
35 *the administrator is not available, by another school staff member*
36 to continue the observation plan as established in subparagraph
37 (I).

38 (l) A school *district* that elects to allow volunteers to administer
39 an emergency antiseizure medication shall compensate a volunteer,
40 *in accordance with that employee volunteer's pay scale pursuant*

1 to Section 45128, when the administration of an emergency
2 antiseizure medication and subsequent monitoring of a pupil
3 requires a volunteer to work beyond his or her normally scheduled
4 hours.

5 (m) (1) ~~The State Department of Public Health, in consultation~~
6 ~~with the department~~ *department, in consultation with the State*
7 *Department of Public Health*, shall develop guidelines for the
8 training and supervision of school employees in providing
9 emergency medical assistance to pupils with epilepsy suffering
10 from seizures *and shall post this information on the department's*
11 *Internet Web site by July 1, 2012.* The guidelines may be developed
12 in cooperation with interested organizations. Upon development
13 of the guidelines, the department shall approve the guidelines for
14 distribution and shall make those guidelines available upon request.

15 (2) The department shall include, on its Internet Web site, a
16 clearinghouse for best practices in training nonmedical personnel
17 to administer an emergency antiseizure medication to pupils.

18 (3) Training established pursuant to this subdivision shall
19 include, but not be limited to, all of the following:

20 (A) Recognition and treatment of different types of seizures.

21 (B) Administration of an emergency antiseizure medication.

22 (C) Basic emergency followup procedures, including, but not
23 limited to, ~~calling a requirement for the school administrator or,~~
24 ~~if the administrator is not available, another school staff member~~
25 ~~to call the emergency 911 telephone number and contacting the~~
26 ~~pupil's parent or guardian.~~ *to contact the pupil's parent or*
27 *guardian. The requirement for the school administrator or other*
28 *school staff member to call the emergency 911 telephone number*
29 *shall not require a pupil to be transported to an emergency room.*

30 (D) Techniques and procedures to ensure pupil privacy.

31 (4) Any written materials used in the training shall be retained
32 by the school.

33 (5) Training established pursuant to this subdivision shall be
34 conducted by one or more of the following:

35 (A) A physician and surgeon.

36 (B) A physician assistant.

37 (C) A credentialed school nurse.

38 (D) A registered nurse.

39 (E) A certificated public health nurse.

1 (6) Training provided in accordance with the manufacturer's
2 instructions, the pupil's health care provider's instructions, and
3 guidelines established pursuant to this section shall be deemed
4 adequate training for purposes of this section.

5 (n) (1) ~~A school employee~~ *The school administrator or, if the*
6 *administrator is not available, another school staff member* shall
7 notify the credentialed school nurse assigned to the school district
8 ~~if he or she~~ *an employee at the schoolsite* administers an emergency
9 antiseizure medication pursuant to this section.

10 (2) If a credentialed school nurse is not assigned to the school
11 district, ~~the school employee~~ *administrator or, if the administrator*
12 *is not available, another school staff member* shall notify the
13 superintendent of the school district, or his or her designee, ~~if he~~
14 ~~or she~~ *an employee at the schoolsite* administers an emergency
15 antiseizure medication pursuant to this section.

16 (3) A school shall retain all records relating to the administration
17 of an emergency antiseizure medication while a pupil is under the
18 supervision of school staff.

19 (o) The pupil's parent or guardian shall provide all materials
20 necessary to administer an emergency antiseizure medication,
21 including the information described in paragraph (6) of subdivision
22 (k). A school shall not be responsible for providing any of the
23 necessary materials.

24 (p) For purposes of this section, the following definitions apply:

25 (1) An "emergency antiseizure medication" means diazepam
26 rectal gel and emergency medications approved by the federal
27 Food and Drug Administration for patients with epilepsy for the
28 management of seizures by persons without the medical credentials
29 listed in paragraph (5) of subdivision (m).

30 (2) "Emergency medical assistance" means the administration
31 of an emergency antiseizure medication to a pupil suffering from
32 an epileptic seizure.

33 (q) This section shall remain in effect only until January 1, 2017,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2017, deletes or extends that date.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 10, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 538
SPONSOR:	Board of Registered Nursing	BILL STATUS:	Assembly Appropriation
SUBJECT:	Nursing (Sunset Bill)	DATE LAST AMENDED:	6/27/11

SUMMARY:

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

ANALYSIS:

This bill would extend the operations of the Board of Registered Nursing until January 1, 2016, and, as of that date, the board would be subject to review by the appropriate policy committees of the Legislature.

Amended analysis of 4/25/11:

This bill amendment authorizes the Board of Registered Nursing to employ investigators and peace officers to provide investigative services necessary to meet their public protection mandate.

Additionally, this bill amendment requires the board, upon the Legislature's request, to fund an audit of the board's diversion program conducted by the Bureau of State Audits.

This bill amendment provides that a school of nursing that is not an institution of higher education or affiliated with an institution of higher education be subject to the requirements set forth in the Private Postsecondary Education Act of 2009.

This bill amendment requires all approved institutions of higher education and schools to remit specified fees for deposit into the board's fund. The schedule of fees is:

\$5,000 for an approval to operate;

\$3,500 for the renewal fee for the institution; and

\$500 as a processing fee for authorization of a substantive change to an approval to operate.

Additionally, the bill would impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into its fund.

This bill amendment authorizes the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill provides that it would be unprofessional conduct for any registered nurse to violate that provision.

Finally, this bill amendment prohibits the transfer of a loan to the General Fund if the transfer will interfere with the board's ability to fulfill their statutory mandate.

Amended analysis of 5/10/11:

This amendment removed the provision that would have required the Bureau of State Audits to audit the Board's diversion program upon a specified request by the Legislature.

Amended analysis of 5/17/11:

This bill amendment would delete the provisions requiring a school of nursing not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees. It would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements of the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees.

This bill amendment requires the board, for these schools of nursing, to have a memorandum of understanding with the Bureau for Postsecondary Education to ensure compliance with the provisions of Title 3 of the Education Code.

Amended analysis of 5/31/11:

This bill amendment removed the prohibition on transferring funds to the General Fund as a loan under circumstances in which the General Fund is or will be exhausted.

Amended analysis of 6/27/11:

This bill amendment would require meetings of the board to be held in the northern and southern parts of the state. The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education.

BOARD POSITION: Support (4/13/11)

Board voted to sponsor SB 538 (6/15/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL**No. 538**

Introduced by Senator Price

February 17, 2011

An act to amend Sections 160, 2701, 2708, 2709, 2786, and 2798 of, and to add Sections 2786.2 and 2786.5 to, the Business and Professions Code, and to amend Section 830.3 of the Penal Code, relating to nursing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Price. Nursing.

Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards. Investigators of the Division of Investigation and of the Medical Board

of California and the Dental Board of California have the authority of peace officers. Those entities are also authorized to employ individuals who are not peace officers to provide investigative services.

This bill would extend the application of those provisions to the Board of Registered Nursing. The bill would make conforming changes to related provisions.

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of these provisions until January 1, 2016, and would specify that the board is subject to review by the appropriate policy committees of the Legislature. *The bill would require meetings of the board to be held in the northern and southern parts of the state.*

Existing law requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees. *The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education.* The bill would subject all nursing schools to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. The bill would also impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into the Private Postsecondary and Vocational Education Administration Fund. Because the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 160 of the Business and Professions Code
2 is amended to read:

3 160. (a) The Chief and, designated investigators of the Division
4 of Investigation of the department, designated investigators of the
5 Medical Board of California, designated investigators of the Dental
6 Board of California, and designated investigators of the Board of
7 Registered Nursing have the authority of peace officers while
8 engaged in exercising the powers granted or performing the duties
9 imposed upon them or the division in investigating the laws
10 administered by the various boards comprising the department or
11 commencing directly or indirectly any criminal prosecution arising
12 from any investigation conducted under these laws. All persons
13 herein referred to shall be deemed to be acting within the scope
14 of employment with respect to all acts and matters set forth in this
15 section.

16 (b) The Division of Investigation of the department, the Medical
17 Board of California, the Dental Board of California, and the Board
18 of Registered Nursing may employ individuals who are not peace
19 officers to provide investigative services.

20 SEC. 2. Section 2701 of the Business and Professions Code is
21 amended to read:

22 2701. (a) There is in the Department of Consumer Affairs the
23 Board of Registered Nursing consisting of nine members.

24 (b) Within the meaning of this chapter, board, or the board,
25 refers to the Board of Registered Nursing. Any reference in state
26 law to the Board of Nurse Examiners of the State of California or
27 California Board of Nursing Education and Nurse Registration
28 shall be construed to refer to the Board of Registered Nursing.

29 (c) This section shall remain in effect only until January 1, 2016,
30 and as of that date is repealed, unless a later enacted statute, that

1 is enacted before January 1, 2016, deletes or extends that date.
2 Notwithstanding any other provision of law, the repeal of this
3 section renders the board subject to review by the appropriate
4 policy committees of the Legislature.

5 SEC. 3. Section 2708 of the Business and Professions Code is
6 amended to read:

7 2708. (a) The board shall appoint an executive officer who
8 shall perform the duties delegated by the board and who shall be
9 responsible to it for the accomplishment of those duties.

10 (b) The executive officer shall be a nurse currently licensed
11 under this chapter and shall possess other qualifications as
12 determined by the board.

13 (c) The executive officer shall not be a member of the board.

14 (d) This section shall remain in effect only until January 1, 2016,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2016, deletes or extends that date.

17 SEC. 4. Section 2709 of the Business and Professions Code is
18 amended to read:

19 2709. The board for the purpose of transacting its business
20 shall meet at least once every three months, at times and places it
21 designates by resolution. *Meetings shall be held in the northern*
22 *and southern parts of the state.*

23 ~~SEC. 4.~~

24 SEC. 5. Section 2786 of the Business and Professions Code is
25 amended to read:

26 2786. (a) An approved school of nursing is one that has been
27 approved by the board, gives the course of instruction approved
28 by the board, covering not less than two academic years, is
29 affiliated or conducted in connection with one or more hospitals,
30 and is an institution of higher education. For purposes of this
31 section, "institution of higher education" includes, but is not limited
32 to, community colleges offering an associate of arts or associate
33 of science degree, *or an entry-level master's degree*, and private
34 postsecondary institutions offering an associate of arts, associate
35 of science, or baccalaureate degree and not subject to the California
36 Private Postsecondary Education Act of 2009 (Chapter 8
37 (commencing with Section 94800) of Part 59 of Division 10 of
38 Title 3 of the Education Code).

39 (b) A school of nursing that is not an institution of higher
40 education or that is affiliated with an institution of higher education

as required by the board, and that is subject to the California Private Postsecondary Education Act of 2009, Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, shall be approved by the board to grant an associate of arts or associate of science degree to individuals who graduate from the school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(c) If an institution of higher education, an affiliated institution, or an institution subject to the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code), applies for approval of a new school of nursing, the school of nursing shall be required to be recognized or approved by an accrediting agency recognized by the United States Department of Education.

~~(e)~~

(d) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to require all schools to provide clinical instruction in all phases of the educational process.

~~(d)~~

(e) The board shall perform or cause to be performed an analysis of the practice of the registered nurse no less than every five years. Results of the analysis shall be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examination, and assessment of the current practice of nursing.

~~SEC. 5.~~

SEC. 6. Section 2786.2 is added to the Business and Professions Code, to read:

2786.2. All private postsecondary schools of nursing approved by the board pursuant to subdivision (b) of Section 2786 shall comply with Article 8 (commencing with Section 94897) to Article 16 (commencing with Section 94928), inclusive, of, and shall be

1 subject to Article 18 (commencing with Section 94932) of, Chapter
2 8 of Part 59 of Division 10 of Title 3 of the Education Code. The
3 board shall have a memorandum of understanding with the Bureau
4 for Postsecondary Education to ensure compliance with these
5 provisions, including the handling of student complaints regarding
6 these approved schools of nursing.

7 ~~SEC. 6.~~

8 *SEC. 7.* Section 2786.5 is added to the Business and Professions
9 Code, to read:

10 2786.5. (a) An institution of higher education or a private
11 postsecondary school of nursing approved by the board pursuant
12 to subdivision (b) of Section 2786 shall remit to the board for
13 deposit in the Board of Registered Nursing Fund the following
14 fees, in accordance with the following schedule:

15 (1) The fee for approval of a school of nursing shall be five
16 thousand dollars (\$5,000).

17 (2) The fee for continuing approval of a new nursing program
18 shall be three thousand five hundred dollars (\$3,500).

19 (3) The processing fee for authorization of a substantive change
20 to an approval of a school of nursing shall be five hundred dollars
21 (\$500).

22 (b) In addition to any fees paid to the board pursuant to
23 paragraphs (1) to (3), inclusive, each school that is approved to
24 operate pursuant to subdivision (b) of Section 2786 shall remit an
25 annual institutional fee to the Bureau for Private Postsecondary
26 Education, in an amount equal to three-quarters of 1 percent of the
27 school's annual revenues derived from students in California, but
28 not exceeding a total of twenty-five thousand dollars (\$25,000)
29 annually, to be deposited in the Private Postsecondary and
30 Vocational Education Administration Fund.

31 (c) If the board determines that the annual cost of providing
32 oversight and review of a school of nursing, as required by this
33 article, is less than the amount of any fees required to be paid by
34 that institution pursuant to this article, the board may decrease the
35 fees applicable to that institution to an amount that is proportional
36 to the board's costs associated with that institution.

37 ~~SEC. 7.~~

38 *SEC. 8.* Section 2798 of the Business and Professions Code is
39 amended to read:

1 2798. (a) It is unlawful for anyone to conduct a school of
2 nursing unless the school has been approved by the board.

3 (b) If the board has a reasonable belief, either by complaint or
4 otherwise, that a school is allowing students to apply for its nursing
5 program and that nursing program does not have the approval of
6 the board, the board shall immediately order the school to cease
7 and desist from offering students the ability to enroll in its nursing
8 program. The board shall also notify the Attorney General's office
9 that the school is offering students the ability to enroll in a nursing
10 program that does not have the approval of the board.

11 (c) It shall be unprofessional conduct for any registered nurse
12 to violate or attempt to violate, either directly or indirectly, or to
13 assist or abet the violation of, this section.

14 (d) This section is not applicable to schools conducted under
15 Section 2789 of this chapter.

16 ~~SEC. 8.~~

17 SEC. 9. Section 830.3 of the Penal Code is amended to read:

18 830.3. The following persons are peace officers whose authority
19 extends to any place in the state for the purpose of performing
20 their primary duty or when making an arrest pursuant to Section
21 836 as to any public offense with respect to which there is
22 immediate danger to person or property, or of the escape of the
23 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
24 the Government Code. These peace officers may carry firearms
25 only if authorized and under those terms and conditions as specified
26 by their employing agencies:

27 (a) Persons employed by the Division of Investigation of the
28 Department of Consumer Affairs and investigators of the Medical
29 Board of California, the Board of Dental Examiners, and the Board
30 of Registered Nursing who are designated by the Director of
31 Consumer Affairs, provided that the primary duty of these peace
32 officers shall be the enforcement of the law as that duty is set forth
33 in Section 160 of the Business and Professions Code.

34 (b) Voluntary fire wardens designated by the Director of
35 Forestry and Fire Protection pursuant to Section 4156 of the Public
36 Resources Code, provided that the primary duty of these peace
37 officers shall be the enforcement of the law as that duty is set forth
38 in Section 4156 of that code.

39 (c) Employees of the Department of Motor Vehicles designated
40 in Section 1655 of the Vehicle Code, provided that the primary

1 duty of these peace officers shall be the enforcement of the law as
2 that duty is set forth in Section 1655 of that code.

3 (d) Investigators of the California Horse Racing Board
4 designated by the board, provided that the primary duty of these
5 peace officers shall be the enforcement of Chapter 4 (commencing
6 with Section 19400) of Division 8 of the Business and Professions
7 Code and Chapter 10 (commencing with Section 330) of Title 9
8 of Part 1 of this code.

9 (e) The State Fire Marshal and assistant or deputy state fire
10 marshals appointed pursuant to Section 13103 of the Health and
11 Safety Code, provided that the primary duty of these peace officers
12 shall be the enforcement of the law as that duty is set forth in
13 Section 13104 of that code.

14 (f) Inspectors of the food and drug section designated by the
15 chief pursuant to subdivision (a) of Section 106500 of the Health
16 and Safety Code, provided that the primary duty of these peace
17 officers shall be the enforcement of the law as that duty is set forth
18 in Section 106500 of that code.

19 (g) All investigators of the Division of Labor Standards
20 Enforcement designated by the Labor Commissioner, provided
21 that the primary duty of these peace officers shall be the
22 enforcement of the law as prescribed in Section 95 of the Labor
23 Code.

24 (h) All investigators of the State Departments of Health Care
25 Services, Public Health, Social Services, Mental Health, and
26 Alcohol and Drug Programs, the Department of Toxic Substances
27 Control, the Office of Statewide Health Planning and Development,
28 and the Public Employees' Retirement System, provided that the
29 primary duty of these peace officers shall be the enforcement of
30 the law relating to the duties of his or her department or office.
31 Notwithstanding any other provision of law, investigators of the
32 Public Employees' Retirement System shall not carry firearms.

33 (i) The Chief of the Bureau of Fraudulent Claims of the
34 Department of Insurance and those investigators designated by the
35 chief, provided that the primary duty of those investigators shall
36 be the enforcement of Section 550.

37 (j) Employees of the Department of Housing and Community
38 Development designated under Section 18023 of the Health and
39 Safety Code, provided that the primary duty of these peace officers

1 shall be the enforcement of the law as that duty is set forth in
2 Section 18023 of that code.

3 (k) Investigators of the office of the Controller, provided that
4 the primary duty of these investigators shall be the enforcement
5 of the law relating to the duties of that office. Notwithstanding any
6 other law, except as authorized by the Controller, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (l) Investigators of the Department of Corporations designated
9 by the Commissioner of Corporations, provided that the primary
10 duty of these investigators shall be the enforcement of the
11 provisions of law administered by the Department of Corporations.
12 Notwithstanding any other provision of law, the peace officers
13 designated pursuant to this subdivision shall not carry firearms.

14 (m) Persons employed by the Contractors' State License Board
15 designated by the Director of Consumer Affairs pursuant to Section
16 7011.5 of the Business and Professions Code, provided that the
17 primary duty of these persons shall be the enforcement of the law
18 as that duty is set forth in Section 7011.5, and in Chapter 9
19 (commencing with Section 7000) of Division 3, of that code. The
20 Director of Consumer Affairs may designate as peace officers not
21 more than 12 persons who shall at the time of their designation be
22 assigned to the special investigations unit of the board.
23 Notwithstanding any other provision of law, the persons designated
24 pursuant to this subdivision shall not carry firearms.

25 (n) The Chief and coordinators of the Law Enforcement Branch
26 of the California Emergency Management Agency.

27 (o) Investigators of the office of the Secretary of State designated
28 by the Secretary of State, provided that the primary duty of these
29 peace officers shall be the enforcement of the law as prescribed
30 in Chapter 3 (commencing with Section 8200) of Division 1 of
31 Title 2 of, and Section 12172.5 of, the Government Code.
32 Notwithstanding any other provision of law, the peace officers
33 designated pursuant to this subdivision shall not carry firearms.

34 (p) The Deputy Director for Security designated by Section
35 8880.38 of the Government Code, and all lottery security personnel
36 assigned to the California State Lottery and designated by the
37 director, provided that the primary duty of any of those peace
38 officers shall be the enforcement of the laws related to assuring
39 the integrity, honesty, and fairness of the operation and
40 administration of the California State Lottery.

1 (q) Investigators employed by the Investigation Division of the
2 Employment Development Department designated by the director
3 of the department, provided that the primary duty of those peace
4 officers shall be the enforcement of the law as that duty is set forth
5 in Section 317 of the Unemployment Insurance Code.

6 Notwithstanding any other provision of law, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (r) The chief and assistant chief of museum security and safety
9 of the California Science Center, as designated by the executive
10 director pursuant to Section 4108 of the Food and Agricultural
11 Code, provided that the primary duty of those peace officers shall
12 be the enforcement of the law as that duty is set forth in Section
13 4108 of the Food and Agricultural Code.

14 (s) Employees of the Franchise Tax Board designated by the
15 board, provided that the primary duty of these peace officers shall
16 be the enforcement of the law as set forth in Chapter 9
17 (commencing with Section 19701) of Part 10.2 of Division 2 of
18 the Revenue and Taxation Code.

19 (t) Notwithstanding any other provision of this section, a peace
20 officer authorized by this section shall not be authorized to carry
21 firearms by his or her employing agency until that agency has
22 adopted a policy on the use of deadly force by those peace officers,
23 and until those peace officers have been instructed in the employing
24 agency's policy on the use of deadly force.

25 Every peace officer authorized pursuant to this section to carry
26 firearms by his or her employing agency shall qualify in the use
27 of the firearms at least every six months.

28 (u) Investigators of the Department of Managed Health Care
29 designated by the Director of the Department of Managed Health
30 Care, provided that the primary duty of these investigators shall
31 be the enforcement of the provisions of laws administered by the
32 Director of the Department of Managed Health Care.
33 Notwithstanding any other provision of law, the peace officers
34 designated pursuant to this subdivision shall not carry firearms.

35 (v) The Chief, Deputy Chief, supervising investigators, and
36 investigators of the Office of Protective Services of the State
37 Department of Developmental Services, provided that the primary

- 1 duty of each of those persons shall be the enforcement of the law
- 2 relating to the duties of his or her department or office.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 10, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 541
SPONSOR:	Medical Board of California & Contractors State License Board	BILL STATUS:	Assembly Appropriation
SUBJECT:	Regulatory boards: expert consultants	DATE LAST AMENDED:	6/21/11

SUMMARY:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law.

Existing law establishes standards relating to personal service contracts in state employment.

ANALYSIS:

This bill would authorize boards within the Department of Consumer Affairs to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of consultants, instead of having to complete the formal contracting process for each consultant.

This bill would declare that it is to take effect immediately as an urgency statute.

Amended analysis of 6/21/11:

This bill amendment would clarify that the provisions would not expand the scope of practice of an expert consultant providing services.

BOARD POSITION: Support (6/15/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

Medical Board of California (co-sponsor)
Contractors State License Board (co-sponsor)
Board of Barbering and Cosmetology
Board of Behavioral Sciences
Board of Optometry
Board of Pharmacy
Board of Podiatric Medicine
Board of Psychology
Board of Registered Nursing
Board of Vocational Nursing and Psychiatric Technicians
California Board of Accountancy
California State Pipe Trades Council
Court Reporters Board of California
Dental Board of California
International Brotherhood of Electrical Workers
Physician Assistant Committee
Respiratory Care Board of California
State Board of Guide Dogs for the Blind
Western States Council of Sheet Metal Workers

OPPOSE:

None on file

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 541

Introduced by Senator Price

February 17, 2011

An act to add Section 40 to the Business and Professions Code, relating to ~~profession~~ *professions* and vocations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. ~~Contractors' State License Regulatory boards: expert consultants.~~

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40 is added to the Business and
2 Professions Code, to read:

3 40. (a) Subject to the standards described in Section 19130 of
4 the Government Code, any board, as defined in Section 22, the
5 State Board of Chiropractic Examiners, or the Osteopathic Medical
6 Board of California may enter into an agreement with an expert
7 consultant to do any of the following:

8 (1) Provide an expert opinion on enforcement-related matters,
9 including providing testimony at an administrative hearing.

10 (2) Assist the board as a subject matter expert in examination
11 development, examination validation, or occupational analyses.

12 (3) Evaluate the mental or physical health of a licensee or an
13 applicant for a license as may be necessary to protect the public
14 health and safety.

15 (b) An executed contract between a board and an expert
16 consultant shall be exempt from the provisions of Part 2
17 (commencing with Section 10100) of Division 2 of the Public
18 Contract Code.

19 (c) Each board shall establish policies and procedures for the
20 selection and use of expert consultants.

21 (d) *Nothing in this section shall be construed to expand the*
22 *scope of practice of an expert consultant providing services*
23 *pursuant to this section.*

24 SEC. 2. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 To ensure that licensees engaging in certain professions and
29 vocations are adequately regulated at the earliest possible time in
30 order to protect and safeguard consumers and the public in this
31 state, it is necessary that this act take effect immediately.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
August 10, 2011
BILL ANALYSIS**

AUTHOR:	Kehoe	BILL NUMBER:	SB 747
SPONSOR:	Equality California	BILL STATUS:	Assembly Appropriation
SUBJECT:	Continuing Education: Lesbian, gay, bisexual, and transgender patients	DATE LAST AMENDED:	6/13/11

SUMMARY:

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications.

ANALYSIS:

This bill would require physicians and surgeons, registered nurses, certified vocational nurses, psychologists, marriage and family therapists, licensed clinical social workers, and psychiatric technicians to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing board to enforce these requirements.

Amended analysis of 4/4/11:

This bill amendment would add physician assistants, nurse practitioners, medical assistants and certified nurse assistants to the provision that requires the specified continuing education course. Also, the provisions in this bill would become effective on January 1, 2013.

Currently, the pre-licensure nursing programs are required to include cultural diversity **(1426d)** in the curriculum, thereby, addressing the proposed provisions in this bill. Also, in order for the nurse to renew his/her license, he/she must complete 30 hours of continuing education, and the learning experiences are expected to enhance the knowledge of the Registered Nurse at a level above that required for licensure **(1456c)**.

Amended analysis of 4/25/11:

This bill amendment would remove "medical assistants" from the list of healing art professionals.

This bill would have a fiscal impact on the Board of Registered Nursing (BRN). The BRN would need to promulgate regulations, audit licensees for compliance and send

confirmation or denial letters to licensees based on compliance. The cost to the BRN would be \$61,000 ongoing to support a staff person to meet the provisions in this bill.

Amended analysis of 6/13/11:

This bill would require individuals licensed by the board before January 1, 2013, to complete the continuing education course requirement no later than January 1, 2018. Individuals who are newly licensed by the board on and after January 1, 2013, would be required to complete the course before their third license renewal date.

This amendment would require the board to request all licensees to disclose on the renewal form or a supplemental form whether they had complied with this requirement.

BOARD POSITION: Oppose (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/11)

SUPPORT:

Equality California (Sponsor)
California Communities United Institute
California National Organization for Women
California STD Controllers Association
Dr. Susan Love Research Foundation
Gay & Lesbian Medical Association
Lesbian and Gay Psychotherapy Association of Southern California, Inc
LGBT Psychotherapists Association of the San Francisco Bay Area
Mental Health America of Northern California
Numerous health care providers and individuals

OPPOSE:

California Academy of Family Physicians
California Association of Marriage and Family Therapists
California Orthopaedic Association
California Psychological Association

AMENDED IN ASSEMBLY JUNE 13, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 747

Introduced by Senator Kehoe

February 18, 2011

An act to amend Sections 2190.1, 2811.5, 2892.5, 2915, 3524.5, 4517, 4980.54, and 4996.22 of the Business and Professions Code, and to amend Section 1337.3 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Kehoe. Continuing education: lesbian, gay, bisexual, and transgender patients.

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications. Existing law imposes various training requirements for certified nurse assistants regulated by the State Department of Public Health.

This bill would require physicians and surgeons, physician assistants, registered nurses, licensed vocational nurses, nurse practitioners, psychologists, marriage and family therapists, licensed clinical social workers, psychiatric technicians, and certified nurse assistants to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing

or certifying entity to enforce these requirements. The new requirements would become effective on January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2190.1 of the Business and Professions
2 Code is amended to read:
3 2190.1. (a) The continuing medical education standards of
4 Section 2190 may be met by educational activities that meet the
5 standards of the board and serve to maintain, develop, or increase
6 the knowledge, skills, and professional performance that a
7 physician and surgeon uses to provide care, or improve the quality
8 of care provided for patients, including, but not limited to,
9 educational activities that meet any of the following criteria:
10 (1) Have a scientific or clinical content with a direct bearing on
11 the quality or cost-effective provision of patient care, community
12 or public health, or preventive medicine.
13 (2) Concern quality assurance or improvement, risk
14 management, health facility standards, or the legal aspects of
15 clinical medicine.
16 (3) Concern bioethics or professional ethics.
17 (4) Are designed to improve the physician-patient relationship.
18 (b) (1) On and after July 1, 2006, all continuing medical
19 education courses shall contain curriculum that includes cultural
20 and linguistic competency in the practice of medicine.
21 (2) Notwithstanding the provisions of paragraph (1), a
22 continuing medical education course dedicated solely to research
23 or other issues that does not include a direct patient care component
24 and a course offered by a continuing medical education provider
25 that is not located in this state are not required to contain
26 curriculum that includes cultural and linguistic competency in the
27 practice of medicine.
28 (3) Associations that accredit continuing medical education
29 courses shall develop standards before July 1, 2006, for compliance
30 with the requirements of paragraph (1). The associations may
31 develop these standards in conjunction with an advisory group that
32 has expertise in cultural and linguistic competency issues.

1 (4) A physician and surgeon who completes a continuing
2 education course meeting the standards developed pursuant to
3 paragraph (3) satisfies the continuing education requirement for
4 cultural and linguistic competency.

5 (c) In order to satisfy the requirements of subdivision (b),
6 continuing medical education courses shall address at least one or
7 a combination of the following:

8 (1) Cultural competency. For the purposes of this section,
9 “cultural competency” means a set of integrated attitudes,
10 knowledge, and skills that enables a health care professional or
11 organization to care effectively for patients from diverse cultures,
12 groups, and communities. At a minimum, cultural competency is
13 recommended to include the following:

14 (A) Applying linguistic skills to communicate effectively with
15 the target population.

16 (B) Utilizing cultural information to establish therapeutic
17 relationships.

18 (C) Eliciting and incorporating pertinent cultural data in
19 diagnosis and treatment.

20 (D) Understanding and applying cultural and ethnic data to the
21 process of clinical care.

22 (2) Linguistic competency. For the purposes of this section,
23 “linguistic competency” means the ability of a physician and
24 surgeon to provide patients who do not speak English or who have
25 limited ability to speak English, direct communication in the
26 patient’s primary language.

27 (3) A review and explanation of relevant federal and state laws
28 and regulations regarding linguistic access, including, but not
29 limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981, et
30 seq.), Executive Order 13166 of August 11, 2000, of the President
31 of the United States, and the Dymally-Alatorre Bilingual Services
32 Act (Chapter 17.5 (commencing with Section 7290) of Division
33 7 of Title 1 of the Government Code).

34 (d) On and after January 1, 2013, the board shall require all of
35 its licensees under this chapter to take at least one continuing
36 education course that provides instruction on cultural competency,
37 sensitivity, and best practices for providing adequate care to
38 lesbian, gay, bisexual, and transgender persons. Persons licensed
39 by the board before January 1, 2013, shall complete the course no
40 later *than* January 1, 2017. Persons who are newly licensed by the

1 board on and after January 1, 2013, shall complete the course
2 within four years of their initial license issuance date or their
3 second license renewal date, whichever occurs first. The course
4 shall be between two and five hours in duration and shall contain
5 content similar to the content described in the publication of the
6 Gay and Lesbian Medical Association entitled “Guidelines for
7 Care of Lesbian, Gay, Bisexual, and Transgender Patients.” The
8 board may specify the required contents of the course by regulation
9 consistent with this subdivision. The board shall enforce this
10 requirement in the same manner as it enforces other required
11 continuing education requirements.

12 (e) Notwithstanding subdivision (a), educational activities that
13 are not directed toward the practice of medicine, or are directed
14 primarily toward the business aspects of medical practice,
15 including, but not limited to, medical office management, billing
16 and coding, and marketing shall not be deemed to meet the
17 continuing medical education standards for licensed physicians
18 and surgeons.

19 (f) Educational activities that meet the content standards set
20 forth in this section and are accredited by the California Medical
21 Association or the Accreditation Council for Continuing Medical
22 Education may be deemed by the Division of Licensing to meet
23 its continuing medical education standards.

24 SEC. 2. Section 2811.5 of the Business and Professions Code
25 is amended to read:

26 2811.5. (a) Each person renewing his or her license under
27 Section 2811 shall submit proof satisfactory to the board that,
28 during the preceding two-year period, he or she has been informed
29 of the developments in the registered nurse field or in any special
30 area of practice engaged in by the licensee, occurring since the
31 last renewal thereof, either by pursuing a course or courses of
32 continuing education in the registered nurse field or relevant to
33 the practice of the licensee, and approved by the board, or by other
34 means deemed equivalent by the board.

35 (b) For purposes of this section, the board shall, by regulation,
36 establish standards for continuing education. The standards shall
37 be established in a manner to ~~assure~~ *ensure* that a variety of
38 alternative forms of continuing education are available to licensees,
39 including, but not limited to, academic studies, in-service
40 education, institutes, seminars, lectures, conferences, workshops,

1 extension studies, and home study programs. The standards shall
2 take cognizance of specialized areas of practice. The continuing
3 education standards established by the board shall not exceed 30
4 hours of direct participation in a course or courses approved by
5 the board, or its equivalent in the units of measure adopted by the
6 board.

7 (c) The board shall encourage continuing education in spousal
8 or partner abuse detection and treatment. In the event the board
9 establishes a requirement for continuing education coursework in
10 spousal or partner abuse detection or treatment, that requirement
11 shall be met by each licensee within no more than four years from
12 the date the requirement is imposed.

13 (d) In establishing standards for continuing education, the board
14 shall consider including a course in the special care needs of
15 individuals and their families facing end-of-life issues, including,
16 but not limited to, all of the following:

- 17 (1) Pain and symptom management.
- 18 (2) The psycho-social dynamics of death.
- 19 (3) Dying and bereavement.
- 20 (4) Hospice care.

21 (e) In establishing standards for continuing education, the board
22 may include a course on pain management.

23 (f) This section shall not apply to licensees during the first two
24 years immediately following their initial licensure in California
25 or any other governmental jurisdiction.

26 (g) On and after January 1, 2013, the board shall require all of
27 its licensees to take at least one continuing education course that
28 provides instruction on cultural competency, sensitivity, and best
29 practices for providing adequate care to lesbian, gay, bisexual, and
30 transgender persons. Persons licensed by the board before January
31 1, 2013, shall complete the course no later *than* January 1, ~~2017~~
32 *2018*. Persons who are newly licensed by the board on and after
33 January 1, 2013, shall complete the course ~~within four years of~~
34 ~~their initial license issuance date or before their second third~~ license
35 renewal date, ~~whichever occurs first~~. The course shall be between
36 two and five hours in duration and shall contain content similar to
37 the content described in the publication of the Gay and Lesbian
38 Medical Association entitled “Guidelines for Care of Lesbian,
39 Gay, Bisexual, and Transgender Patients.” The board may specify
40 the required contents of the course by regulation consistent with

1 this subdivision. The board shall *not* enforce this requirement in
2 the same manner as it enforces other required continuing education
3 requirements, *and shall instead request all persons licensed by the*
4 *board to disclose on the renewal form or a supplemental form*
5 *whether they have complied with this requirement.*

6 (h) The board may, in accordance with the intent of this section,
7 make exceptions from continuing education requirements for
8 licensees residing in another state or country, or for reasons of
9 health, military service, or other good cause.

10 (i) This section shall apply to all persons licensed under this
11 chapter, including nurse practitioners.

12 SEC. 3. Section 2892.5 of the Business and Professions Code
13 is amended to read:

14 2892.5. (a) Each person renewing his or her license under the
15 provisions of this chapter shall submit proof satisfactory to the
16 board that, during the preceding two-year period, he or she has
17 informed himself or herself of developments in the vocational
18 nurse field or in any special area of vocational nurse practice,
19 occurring since the issuance of his or her certificate, or the last
20 renewal thereof, whichever last occurred, either by pursuing a
21 course or courses of continuing education approved by the board
22 in the vocational nurse field or relevant to the practice of such
23 licensee, and approved by the board; or by other means deemed
24 equivalent by the board.

25 (b) For purposes of this section, the board shall, by regulation,
26 establish standards for continuing education. The standards shall
27 be established in a manner to ~~assure~~ *ensure* that a variety of
28 alternative forms of continuing education are available to licensees
29 including, but not limited to, academic studies, in-service
30 education, institutes, seminars, lectures, conferences, workshops,
31 extension studies, and home study programs. The standards shall
32 take cognizance of specialized areas of practice. The continuing
33 education standards established by the board shall not exceed 30
34 hours of direct participation in a course or courses approved by
35 the board, or its equivalent in the units of measure adopted by the
36 board.

37 (c) This section shall not apply to the first license renewal
38 following the initial issuance of a license.

39 (d) On and after January 1, 2013, the board shall require all of
40 its licensees to take at least one continuing education course that

1 provides instruction on cultural competency, sensitivity, and best
2 practices for providing adequate care to lesbian, gay, bisexual, and
3 transgender persons. Persons licensed by the board before January
4 1, 2013, shall complete the course no later *than* January 1, 2017.
5 Persons who are newly licensed by the board on and after January
6 1, 2013, shall complete the course within four years of their initial
7 license issuance date or their second license renewal date,
8 whichever occurs first. The course shall be between two and five
9 hours in duration and shall contain content similar to the content
10 described in the publication of the Gay and Lesbian Medical
11 Association entitled “Guidelines for Care of Lesbian, Gay,
12 Bisexual, and Transgender Patients.” The board may specify the
13 required contents of the course by regulation consistent with this
14 subdivision. The board shall enforce this requirement in the same
15 manner as it enforces other required continuing education
16 requirements.

17 (e) The board may, in accordance with the intent of this section,
18 make exceptions from continuing education for licensees residing
19 in another state or country, or for reasons of health, military service,
20 or other good cause.

21 SEC. 4. Section 2915 of the Business and Professions Code is
22 amended to read:

23 2915. (a) Except as provided in this section, on or after January
24 1, 1996, the board shall not issue any renewal license unless the
25 applicant submits proof that he or she has completed no less than
26 18 hours of approved continuing education in the preceding year.
27 On or after January 1, 1997, except as provided in this section, the
28 board shall issue renewal licenses only to those applicants who
29 have completed 36 hours of approved continuing education in the
30 preceding two years.

31 (b) Each person renewing his or her license issued pursuant to
32 this chapter shall submit proof of compliance with this section to
33 the board. False statements submitted pursuant to this section shall
34 be a violation of Section 2970.

35 (c) A person applying for relicensure or for reinstatement to an
36 active license status shall certify under penalty of perjury that he
37 or she is in compliance with this section.

38 (d) (1) The continuing education requirement shall include, but
39 shall not be limited to, courses required pursuant to Sections 25

1 and 28. The requirement may include courses pursuant to Sections
2 32 and 2914.1.

3 (2) (A) The board shall require a licensed psychologist who
4 began graduate study prior to January 1, 2004, to take a continuing
5 education course during his or her first renewal period after the
6 operative date of this section in spousal or partner abuse
7 assessment, detection, and intervention strategies, including
8 community resources, cultural factors, and same gender abuse
9 dynamics. Equivalent courses in spousal or partner abuse
10 assessment, detection, and intervention strategies taken prior to
11 the operative date of this section or proof of equivalent teaching
12 or practice experience may be submitted to the board and at its
13 discretion, may be accepted in satisfaction of this requirement.

14 (B) Continuing education courses taken pursuant to this
15 paragraph shall be applied to the 36 hours of approved continuing
16 education required under subdivision (a).

17 (C) A licensed psychologist whose practice does not include
18 the direct provision of mental health services may apply to the
19 board for an exemption from the requirements of this paragraph.

20 (3) Continuing education instruction approved to meet the
21 requirements of this section shall be completed within the State
22 of California, or shall be approved for continuing education credit
23 by the American Psychological Association or its equivalent as
24 approved by the board.

25 (e) The board may establish a policy for exceptions from the
26 continuing education requirement of this section.

27 (f) The board may recognize continuing education courses that
28 have been approved by one or more private nonprofit organizations
29 that have at least 10 years' experience managing continuing
30 education programs for psychologists on a statewide basis,
31 including, but not limited to:

32 (1) Maintaining and managing related records and data.

33 (2) Monitoring and approving courses.

34 (g) The board shall adopt regulations as necessary for
35 implementation of this section.

36 (h) A licensed psychologist shall choose continuing education
37 instruction that is related to the assessment, diagnosis, and
38 intervention for the client population being served or to the fields
39 of psychology in which the psychologist intends to provide
40 services, that may include new theoretical approaches, research,

1 and applied techniques. Continuing education instruction shall
2 include required courses specified in subdivision (d).

3 (i) A psychologist shall not practice outside his or her particular
4 field or fields of competence as established by his or her education,
5 training, continuing education, and experience.

6 (j) On and after January 1, 2013, the board shall require every
7 person licensed under this chapter to take at least one continuing
8 education course that provides instruction on cultural competency,
9 sensitivity, and best practices for providing adequate care to
10 lesbian, gay, bisexual, and transgender persons. Persons licensed
11 by the board before January 1, 2013, shall complete the course no
12 later *than* January 1, 2017. Persons who are newly licensed by the
13 board under this chapter on and after January 1, 2013, shall
14 complete the course within four years of their initial license
15 issuance date or their second license renewal date, whichever
16 occurs first. The course shall be between two and five hours in
17 duration and shall contain content similar to the content described
18 in the publication of the Gay and Lesbian Medical Association
19 entitled “Guidelines for Care of Lesbian, Gay, Bisexual, and
20 Transgender Patients.” The board may specify the required contents
21 of the course by regulation consistent with this subdivision. The
22 board shall enforce this requirement in the same manner as it
23 enforces other required continuing education requirements.

24 (k) The administration of this section may be funded through
25 professional license fees and continuing education provider and
26 course approval fees, or both. The fees related to the administration
27 of this section shall not exceed the costs of administering the
28 corresponding provisions of this section.

29 (l) Continuing education credit may be approved for those
30 licensees who serve as commissioners on any examination pursuant
31 to Section 2947, subject to limitations established by the board.

32 SEC. 5. Section 3524.5 of the Business and Professions Code
33 is amended to read:

34 3524.5. (a) The committee may require a licensee to complete
35 continuing education as a condition of license renewal under
36 Section 3523 or 3524. The committee shall not require more than
37 50 hours of continuing education every two years. The committee
38 shall, as it deems appropriate, accept certification by the National
39 Commission on Certification of Physician Assistants (NCCPA),
40 or another qualified certifying body, as determined by the

1 committee, as evidence of compliance with continuing education
2 requirements.

3 (b) On and after January 1, 2013, the board shall require all of
4 its licensees under this chapter to take at least one continuing
5 education course that provides instruction on cultural competency,
6 sensitivity, and best practices for providing adequate care to
7 lesbian, gay, bisexual, and transgender persons. Persons licensed
8 by the board before January 1, 2013, shall complete the course no
9 later *than* January 1, 2017. Persons who are newly licensed by the
10 board on and after January 1, 2013, shall complete the course
11 within four years of their initial license issuance date or their
12 second license renewal date, whichever occurs first. The course
13 shall be between two and five hours in duration and shall contain
14 content similar to the content described in the publication of the
15 Gay and Lesbian Medical Association entitled “Guidelines for
16 Care of Lesbian, Gay, Bisexual, and Transgender Patients.” The
17 board may specify the required contents of the course by regulation
18 consistent with this subdivision. The board shall enforce this
19 requirement in the same manner as it enforces other required
20 continuing education requirements.

21 SEC. 6. Section 4517 of the Business and Professions Code is
22 amended to read:

23 4517. (a) The board may, in its discretion, provide for a
24 continuing education program in connection with the professional
25 functions and courses described in this chapter. The number of
26 course hours that the board may require in a continuing education
27 program shall not exceed the number of course hours prescribed
28 for licensed vocational nurses pursuant to Section 2892.5.

29 (b) On and after January 1, 2013, the board shall require all of
30 its licensees to take at least one continuing education course that
31 provides instruction on cultural competency, sensitivity, and best
32 practices for providing adequate care to lesbian, gay, bisexual, and
33 transgender persons. Persons licensed by the board before January
34 1, 2013, shall complete the course no later *than* January 1, 2017.
35 Persons who are newly licensed by the board on and after January
36 1, 2013, shall complete the course within four years of their initial
37 license issuance date or their second license renewal date,
38 whichever occurs first. The course shall be between two and five
39 hours in duration and shall contain content similar to the content
40 described in the publication of the Gay and Lesbian Medical

1 Association entitled “Guidelines for Care of Lesbian, Gay,
2 Bisexual, and Transgender Patients.” The board may specify the
3 required contents of the course by regulation consistent with this
4 subdivision. The board shall enforce this requirement in the same
5 manner as it enforces other required continuing education
6 requirements.

7 SEC. 7. Section 4980.54 of the Business and Professions Code
8 is amended to read:

9 4980.54. (a) The Legislature recognizes that the education and
10 experience requirements in this chapter constitute only minimal
11 requirements to ~~assure~~ *ensure* that an applicant is prepared and
12 qualified to take the licensure examinations as specified in
13 subdivision (d) of Section 4980.40 and, if he or she passes those
14 examinations, to begin practice.

15 (b) In order to continuously improve the competence of licensed
16 marriage and family therapists and as a model for all
17 psychotherapeutic professions, the Legislature encourages all
18 licensees to regularly engage in continuing education related to
19 the profession or scope of practice as defined in this chapter.

20 (c) Except as provided in subdivision (e), the board shall not
21 renew any license pursuant to this chapter unless the applicant
22 certifies to the board, on a form prescribed by the board, that he
23 or she has completed not less than 36 hours of approved continuing
24 education in or relevant to the field of marriage and family therapy
25 in the preceding two years, as determined by the board.

26 (d) The board shall have the right to audit the records of any
27 applicant to verify the completion of the continuing education
28 requirement. Applicants shall maintain records of completion of
29 required continuing education coursework for a minimum of two
30 years and shall make these records available to the board for
31 auditing purposes upon request.

32 (e) The board may establish exceptions from the continuing
33 education requirements of this section for good cause, as defined
34 by the board.

35 (f) The continuing education shall be obtained from one of the
36 following sources:

37 (1) An accredited school or state-approved school that meets
38 the requirements set forth in Section 4980.36 or 4980.37. Nothing
39 in this paragraph shall be construed as requiring coursework to be
40 offered as part of a regular degree program.

1 (2) Other continuing education providers, including, but not
2 limited to, a professional marriage and family therapist association,
3 a licensed health facility, a governmental entity, a continuing
4 education unit of an accredited four-year institution of higher
5 learning, or a mental health professional association, approved by
6 the board.

7 (g) The board shall establish, by regulation, a procedure for
8 approving providers of continuing education courses, and all
9 providers of continuing education, as described in paragraphs (1)
10 and (2) of subdivision (f), shall adhere to procedures established
11 by the board. The board may revoke or deny the right of a provider
12 to offer continuing education coursework pursuant to this section
13 for failure to comply with the requirements of this section or any
14 regulation adopted pursuant to this section.

15 (h) Training, education, and coursework by approved providers
16 shall incorporate one or more of the following:

17 (1) Aspects of the discipline that are fundamental to the
18 understanding or the practice of marriage and family therapy.

19 (2) Aspects of the discipline of marriage and family therapy in
20 which significant recent developments have occurred.

21 (3) Aspects of other disciplines that enhance the understanding
22 or the practice of marriage and family therapy.

23 (i) A system of continuing education for licensed marriage and
24 family therapists shall include courses directly related to the
25 diagnosis, assessment, and treatment of the client population being
26 served.

27 (j) On and after January 1, 2013, the board shall require all of
28 its licensees to take at least one continuing education course that
29 provides instruction on cultural competency, sensitivity, and best
30 practices for providing adequate care to lesbian, gay, bisexual, and
31 transgender persons. Persons licensed by the board before January
32 1, 2013, shall complete the course no later *than* January 1, 2017.
33 Persons who are newly licensed by the board on and after January
34 1, 2013, shall complete the course within four years of their initial
35 license issuance date or their second license renewal date,
36 whichever occurs first. The course shall be between two and five
37 hours in duration and shall contain content similar to the content
38 described in the publication of the Gay and Lesbian Medical
39 Association entitled “Guidelines for Care of Lesbian, Gay,
40 Bisexual, and Transgender Patients.” The board may specify the

1 required contents of the course by regulation consistent with this
2 subdivision. The board shall enforce this requirement in the same
3 manner as it enforces other required continuing education
4 requirements.

5 (k) The board shall, by regulation, fund the administration of
6 this section through continuing education provider fees to be
7 deposited in the Behavioral Sciences Fund. The fees related to the
8 administration of this section shall be sufficient to meet, but shall
9 not exceed, the costs of administering the corresponding provisions
10 of this section. For purposes of this subdivision, a provider of
11 continuing education as described in paragraph (1) of subdivision
12 (f) shall be deemed to be an approved provider.

13 (l) The continuing education requirements of this section shall
14 comply fully with the guidelines for mandatory continuing
15 education established by the Department of Consumer Affairs
16 pursuant to Section 166.

17 SEC. 8. Section 4996.22 of the Business and Professions Code
18 is amended to read:

19 4996.22. (a) (1) Except as provided in subdivision (c), the
20 board shall not renew any license pursuant to this chapter unless
21 the applicant certifies to the board, on a form prescribed by the
22 board, that he or she has completed not less than 36 hours of
23 approved continuing education in or relevant to the field of social
24 work in the preceding two years, as determined by the board.

25 (2) The board shall not renew any license of an applicant who
26 began graduate study prior to January 1, 2004, pursuant to this
27 chapter unless the applicant certifies to the board that during the
28 applicant's first renewal period after the operative date of this
29 section, he or she completed a continuing education course in
30 spousal or partner abuse assessment, detection, and intervention
31 strategies, including community resources, cultural factors, and
32 same gender abuse dynamics. On and after January 1, 2005, the
33 course shall consist of not less than seven hours of training.
34 Equivalent courses in spousal or partner abuse assessment,
35 detection, and intervention strategies taken prior to the operative
36 date of this section or proof of equivalent teaching or practice
37 experience may be submitted to the board and at its discretion,
38 may be accepted in satisfaction of this requirement. Continuing
39 education courses taken pursuant to this paragraph shall be applied

1 to the 36 hours of approved continuing education required under
2 paragraph (1).

3 (b) The board shall have the right to audit the records of any
4 applicant to verify the completion of the continuing education
5 requirement. Applicants shall maintain records of completion of
6 required continuing education coursework for a minimum of two
7 years and shall make these records available to the board for
8 auditing purposes upon request.

9 (c) The board may establish exceptions from the continuing
10 education requirement of this section for good cause as defined
11 by the board.

12 (d) The continuing education shall be obtained from one of the
13 following sources:

14 (1) An accredited school of social work, as defined in Section
15 4991.2, or a school or department of social work that is a candidate
16 for accreditation by the Commission on Accreditation of the
17 Council on Social Work Education. Nothing in this paragraph shall
18 be construed as requiring coursework to be offered as part of a
19 regular degree program.

20 (2) Other continuing education providers, including, but not
21 limited to, a professional social work association, a licensed health
22 facility, a governmental entity, a continuing education unit of an
23 accredited four-year institution of higher learning, and a mental
24 health professional association, approved by the board.

25 (e) The board shall establish, by regulation, a procedure for
26 approving providers of continuing education courses, and all
27 providers of continuing education, as described in paragraphs (1)
28 and (2) of subdivision (d), shall adhere to the procedures
29 established by the board. The board may revoke or deny the right
30 of a provider to offer continuing education coursework pursuant
31 to this section for failure to comply with the requirements of this
32 section or any regulation adopted pursuant to this section.

33 (f) Training, education, and coursework by approved providers
34 shall incorporate one or more of the following:

35 (1) Aspects of the discipline that are fundamental to the
36 understanding, or the practice, of social work.

37 (2) Aspects of the social work discipline in which significant
38 recent developments have occurred.

39 (3) Aspects of other related disciplines that enhance the
40 understanding, or the practice, of social work.

1 (g) A system of continuing education for licensed clinical social
2 workers shall include courses directly related to the diagnosis,
3 assessment, and treatment of the client population being served.

4 (h) The continuing education requirements of this section shall
5 comply fully with the guidelines for mandatory continuing
6 education established by the Department of Consumer Affairs
7 pursuant to Section 166.

8 (i) On and after January 1, 2013, the board shall require all of
9 its licensees to take at least one continuing education course that
10 provides instruction on cultural competency, sensitivity, and best
11 practices for providing adequate care to lesbian, gay, bisexual, and
12 transgender persons. Persons licensed by the board before January
13 1, 2013, shall complete the course no later *than* January 1, 2017.
14 Persons who are newly licensed by the board on and after January
15 1, 2013, shall complete the course within four years of their initial
16 license issuance date or their second license renewal date,
17 whichever occurs first. The course shall be between two and five
18 hours in duration and shall contain content similar to the content
19 described in the publication of the Gay and Lesbian Medical
20 Association entitled “Guidelines for Care of Lesbian, Gay,
21 Bisexual, and Transgender Patients.” The board may specify the
22 required contents of the course by regulation consistent with this
23 subdivision. The board shall enforce this requirement in the same
24 manner as it enforces other required continuing education
25 requirements.

26 (j) The board may adopt regulations as necessary to implement
27 this section.

28 (k) The board shall, by regulation, fund the administration of
29 this section through continuing education provider fees to be
30 deposited in the Behavioral Science Examiners Fund. The fees
31 related to the administration of this section shall be sufficient to
32 meet, but shall not exceed, the costs of administering the
33 corresponding provisions of this section. For purposes of this
34 subdivision, a provider of continuing education as described in
35 paragraph (1) of subdivision (d) shall be deemed to be an approved
36 provider.

37 SEC. 9. Section 1337.3 of the Health and Safety Code is
38 amended to read:

39 1337.3. (a) The state department shall prepare and maintain
40 a list of approved training programs for nurse assistant certification.

1 The list shall include training programs conducted by skilled
2 nursing or intermediate care facilities, as well as local agencies
3 and education programs. In addition, the list shall include
4 information on whether a training center is currently training nurse
5 assistants, their competency test pass rates, and the number of
6 nurse assistants they have trained. Clinical portions of the training
7 programs may be obtained as on-the-job training, supervised by a
8 qualified director of staff development or licensed nurse.

9 (b) It shall be the duty of the state department to inspect a
10 representative sample of training programs. The state department
11 shall protect consumers and students in any training program
12 against fraud, misrepresentation, or other practices that may result
13 in improper or excessive payment of funds paid for training
14 programs. In evaluating a training center's training program, the
15 state department shall examine each training center's trainees'
16 competency test passage rate, and require each program to maintain
17 an average 60 percent test score passage rate to maintain its
18 participation in the program. The average test score passage rate
19 shall be calculated over a two-year period. If the state department
20 determines that any training program is not complying with
21 regulations or is not meeting the competency passage rate
22 requirements, notice thereof in writing shall be immediately given
23 to the program. If the program has not been brought into
24 compliance within a reasonable time, the program may be removed
25 from the approved list and notice thereof in writing given to it.
26 Programs removed under this article shall be afforded an
27 opportunity to request reinstatement of program approval at any
28 time. The state department's district offices shall inspect
29 facility-based centers as part of their annual survey.

30 (c) Notwithstanding Section 1337.1, the approved training
31 program shall consist of at least the following:

32 (1) A 16-hour orientation program to be given to newly
33 employed nurse assistants prior to providing direct patient care,
34 and consistent with federal training requirements for facilities
35 participating in the Medicare or Medicaid programs.

36 (2) (A) A certification training program consisting of at least
37 60 classroom hours of training on basic nursing skills, patient
38 safety and rights, the social and psychological problems of patients,
39 and elder abuse recognition and reporting pursuant to subdivision
40 (e) of Section 1337.1. The 60 classroom hours of training may be

1 conducted within a skilled nursing facility, an intermediate care
2 facility, or an educational institution.

3 (B) In addition to the 60 classroom hours of training required
4 under subparagraph (A), the certification program shall also consist
5 of 100 hours of supervised and on-the-job training clinical practice.
6 The 100 hours may consist of normal employment as a nurse
7 assistant under the supervision of either the director of staff
8 development or a licensed nurse qualified to provide nurse assistant
9 training who has no other assigned duties while providing the
10 training.

11 (3) At least two hours of the 60 hours of classroom training and
12 at least four hours of the 100 hours of the supervised clinical
13 training shall address the special needs of persons with
14 developmental and mental disorders, including mental retardation,
15 Alzheimer's disease, cerebral palsy, epilepsy, dementia,
16 Parkinson's disease, and mental illness.

17 (4) On and after January 1, 2013, at least two, but not more than
18 five, hours of the classroom training shall provide instruction on
19 cultural competency, sensitivity, and best practices for providing
20 adequate care to lesbian, gay, bisexual, and transgender persons.
21 Persons certified by the state department under this article before
22 January 1, 2013, shall complete the course no later *than* January
23 1, 2017. Persons who are newly certified by the state department
24 under this article on and after January 1, 2013, shall complete the
25 course within four years of their initial certificate issuance date or
26 their second certificate renewal date, whichever occurs first. The
27 instruction shall contain content similar to the content described
28 in the publication of the Gay and Lesbian Medical Association
29 entitled "Guidelines for Care of Lesbian, Gay, Bisexual, and
30 Transgender Patients." The state department may specify the
31 required contents of the course by regulation consistent with this
32 paragraph. The state department shall enforce this requirement in
33 the same manner as it enforces other required training requirements.

34 (d) The state department, in consultation with the State
35 Department of Education and other appropriate organizations, shall
36 develop criteria for approving training programs, that includes
37 program content for orientation, training, inservice, and the
38 examination for testing knowledge and skills related to basic patient
39 care services and shall develop a plan that identifies and encourages
40 career ladder opportunities for certified nurse assistants. This group

1 shall also recommend, and the department shall adopt, regulation
2 changes necessary to provide for patient care when facilities utilize
3 noncertified nurse assistants who are performing direct patient
4 care. The requirements of this subdivision shall be established by
5 January 1, 1989.

6 (e) On or before January 1, 2004, the state department, in
7 consultation with the State Department of Education, the American
8 Red Cross, and other appropriate organizations, shall do the
9 following:

10 (1) Review the current examination for approved training
11 programs for certified nurse assistants to ensure the accurate
12 assessment of whether a nurse assistant has obtained the required
13 knowledge and skills related to basic patient care services.

14 (2) Develop a plan that identifies and encourages career ladder
15 opportunities for certified nurse assistants, including the application
16 of on-the-job post-certification hours to educational credits.

17 (f) A skilled nursing or intermediate care facility shall determine
18 the number of specific clinical hours within each module identified
19 by the state department required to meet the requirements of
20 subdivision (d), subject to subdivisions (b) and (c). The facility
21 shall consider the specific hours recommended by the state
22 department when adopting the certification training program
23 required by this chapter.

24 (g) This article shall not apply to a program conducted by any
25 church or denomination for the purpose of training the adherents
26 of the church or denomination in the care of the sick in accordance
27 with its religious tenets.

28 (h) The Chancellor of the California Community Colleges shall
29 provide to the state department a standard process for approval of
30 college credit. The state department shall make this information
31 available to all training programs in the state.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 11.2
DATE: August 10, 2011

ACTION REQUESTED: Information Only: Federal Legislation of Interest to the Board and other interested parties.

REQUESTED BY: Richard Rice, Chairperson
Legislative Committee

BACKGROUND: Two Nursing Organizations requested information about Federal Legislation at the January 5, 2011, Legislative Committee Meeting.

NEXT STEP: None

FINANCIAL IMPLICATION, IF ANY: None

PERSON TO CONTACT: Kay Weinkam, NEC and Legislative Liaison
(916) 574-7680

Federal Legislation
August 10, 2011

Bill Number: S. 227
Title: Home Health Care Planning Improvement Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to revise conditions of and limitations on payment for home health care services. Allows payment for home health services to Medicare beneficiaries by: (1) a nurse practitioner; (2) a clinical nurse specialist working in collaboration with a physician in accordance with state law; (3) a certified nurse-midwife; or (4) a physician assistant under a physician's supervision.
Location: Senate - Committee on Finance
Sponsor: Senator Susan Collins of Maine (Republican)

Bill Number: S. 56
Title: Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to eliminate the state option to include nurse practitioners, certified nurse-midwives, and physician assistants as primary care case managers. Specifies as primary care case managers any nurse practitioner, certified nurse-midwife, or physician assistant that provides primary care case management services under a primary care case management contract. Revises the coverage of certain nurse practitioner services under the Medicaid fee-for-service program to remove the specification of certified pediatric nurse practitioner and certified family nurse practitioner in order to extend such coverage to services furnished by a nurse practitioner or clinical nurse specialist. Includes nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists in the mix of service providers which Medicaid managed care organizations are required to maintain.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 58
Related Bills: H.R. 876 authored by House Representative Lois Capps of California (Democrat)
Title: Registered Nurse Safe Staffing Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to require each Medicare participating hospital to implement a hospital-wide staffing plan for nursing services furnished in the hospital.

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Federal Legislation
August 10, 2011

Requires the plan to require that an appropriate number of registered nurses provide direct patient care in each unit and on each shift of the hospital to ensure staffing levels that: (1) address the unique characteristics of the patients and hospital units; and (2) result in the delivery of safe, quality patient care consistent with specified requirements.

Requires each participating hospital to establish a hospital nurse staffing committee which shall implement and oversee such plan.

Specifies civil monetary and other penalties for violation of the requirements of this Act.

Sets forth whistleblower protections against discrimination and retaliation involving patients or employees of the hospital for their grievances, complaints, or involvement in investigations relating to such plan.

Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 55
Title: Nursing School Clinics Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to provide for coverage of nursing school clinic services.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 53
Title: Doctor of Nursing Practice and Doctor of Pharmacy Dual Degree Program Act of 2011
Summary: Expresses the sense of the Senate that there should be established a Doctor of Nursing Practice (DNP) and Doctor of Pharmacy (PharmD) dual degree program, which would: (1) improve patient outcomes, (2) help health providers meet the unique needs of rural communities across the age continuum and in diverse settings, (3) enhance collaboration between DNPs and physicians regarding drug therapy, (4) provide for research concerning and the implementation of safer medication administration, (5) broaden the scope of practice for pharmacists through education and training in

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Federal Legislation
August 10, 2011

diagnosis and management of common diseases, (6) provide new employment opportunities, and (7) assist in filling the need for primary care providers with an expertise in geriatrics and pharmaceuticals. Calls for additional research and evaluation to be conducted to determine the extent to which graduates of such a program improve primary health care, address disparities, diversify the workforce, and increase quality of service for underserved populations.

Location:

Senate - Committee on Health, Education, Labor, and Pensions

Sponsor:

Senator Daniel Inouye of Hawaii (Democrat)